
STATUTORY INSTRUMENTS

2005 No. 3373

The National Health Service (Personal Dental Services Agreements) Regulations 2005

PART 1 **E+W**

GENERAL

Citation, commencement and application **E+W**

1.—(1) These Regulations may be cited as the National Health Service (Personal Dental Services Agreements) Regulations 2005 and shall come into force on 1st January 2006.

(2) These Regulations apply in relation to England only ^{M1}.

Marginal Citations

M1 As regards Wales, the functions of the Secretary of State under sections 28D, 28E and 126(4) of the Act and section 4 of the 1990 Act were transferred to Wales under [S.I. 1999/672](#), article 2 and Schedule 1, as amended by the 1999 Act, section 66(5) and as read with section 40(1) of the 2002 Act and section 197(1) of the 2003 Act.

Interpretation **E+W**

2.—(1) In these Regulations—

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

[^{F1}“the 2006 Act” means the National Health Service Act 2006;

“the 2012 Act” means the Health and Social Care Act 2012;]

“the 1990 Act” means the National Health Service and Community Care Act 1990;

“additional services” means one or more of—

- (a) advanced mandatory services;
- (b) dental public health services;
- (c) domiciliary services;
- (d) orthodontic services; and
- (e) sedation services;

“adjudicator” means the Secretary of State or a person or persons appointed by the Secretary of State under section 4(5) of the 1990 Act (NHS contracts) or paragraph 55(4) of Schedule 3 (NHS dispute resolution procedure);

“advanced mandatory services” means any primary dental service that would fall within the services described in regulation 14 of the GDS Contracts Regulations, but by virtue of the high

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level of facilities, experience or expertise required in respect of a particular patient, is provided as a referral service;

“agreement” means, except where the context otherwise requires, an agreement for primary dental services made under section 28C of the Act;

“Band 1 course of treatment” means a course of treatment, including a course of treatment consisting of urgent treatment, provided to a patient in respect of which a Band 1 NHS Charge is payable pursuant to the NHS Charges Regulations, or would be payable if the patient was not an exempt person;

“Band 2 course of treatment” means a course of treatment provided to a patient in respect of which a Band 2 NHS Charge is payable pursuant to the NHS Charges Regulations, or would be payable if the patient was not an exempt person;

“Band 3 course of treatment” means a course of treatment provided to a patient in respect of which a Band 3 NHS Charge is payable pursuant to the NHS Charges Regulations, or would be payable if the patient was not an exempt person;

“banded course of treatment” means^[F2], subject to regulation 14C,] a Band 1, Band 2 or Band 3 course of treatment;

“bank holiday” means any day that is specified or proclaimed as a bank holiday in England pursuant to section 1 of the Banking and Financial Dealings Act 1971^{M2};

[^{F3}“the Board” means the National Health Service Commissioning Board;]

“bridge” means a fixed or removable bridge which takes the place of any teeth;

[^{F4}“capitated patient” has the meaning given in regulation 14C;]

[^{F5}“Capitation and Quality Scheme Agreement” means an agreement containing such terms and conditions relating to the provision of primary dental services as are required by, and which is made in accordance with, directions given by the Secretary of State under section 8 of the National Health Service Act 2006;]

[^{F6}“Capitation and Quality Scheme 2 Agreement” means an agreement containing such terms and conditions relating to the provision of primary dental services as are required by, and which is made in accordance with, directions given by the Secretary of State under section 114A of the 2006 Act;]

“case assessment”, in respect of an orthodontic course of treatment, means a clinical examination of the patient, including the taking of such radiographs, colour photographs and models as are required in order to determine what orthodontic treatment (if any) is to be provided to the patient;

[^{F7}“CDS prototype contractor” means a contractor who has elected to enter into a prototype agreement under which primary dental services are secured for, and provided to, persons who cannot easily access such services;]

“charge exempt course of treatment” means a course of treatment that involves the examination and assessment of a patient leading to—

- (a) the issue of a prescription;
- (b) the repair of a dental appliance;
- (c) the arrest of bleeding; or
- (d) the removal of sutures,

which, by virtue of regulation 3(2)(d) or (e) of the NHS Charges Regulations, is provided free of charge to the patient;

“charity trustee” means one of the persons having the general control and management of the administration of a charity;

“child” means a person who has not attained the age of 16 years;

“complete”, in relation to—

- (a) a course of treatment, means that—
 - (i) where no treatment plan has to be provided in respect of a course of treatment pursuant to paragraph 8(5) of Schedule 3 (treatment plans), all the treatment recommended to, and agreed with, the patient by the contractor at the initial examination and assessment of that patient has been provided to the patient; or
 - (ii) where a treatment plan has to be provided to the patient pursuant to paragraph 8(1) of Schedule 3, all the treatment specified on that plan by the contractor (or that plan as revised in accordance with paragraph 8(3) of that Schedule) has been provided to the patient; and
- (b) an orthodontic course of treatment, means that—
 - (i) where the contractor determines in accordance with paragraph 4 of Schedule 1 (patients to whom orthodontic treatment may be provided) that no orthodontic treatment should be provided following the case assessment, the completion of the case assessment; or
 - (ii) where the contractor has determined that orthodontic treatment should be provided following the case assessment, all of the orthodontic treatment specified on the orthodontic treatment plan by the contractor pursuant to paragraph 6 of Schedule 1 (orthodontic treatment plans) (or that plan as revised in accordance with paragraph 6(3) of that Schedule) has been provided to the patient,and “completed” shall be construed accordingly;

[^{F8}“contractor” means a person other than the Board, who is a party to the agreement];

[^{F9}“course of treatment” means—

- (a) an examination of a patient, an assessment of that patient’s oral health, and the planning of any treatment to be provided to that patient as a result of that examination and assessment; and
- (b) the provision of any planned treatment (including any treatment planned at a time other than at the time of the initial examination) to that patient up to the date on which—
 - (i) each and every component of the planned treatment has been provided to the patient, or
 - (ii) the patient either voluntarily withdraws from, or is withdrawn by the provider from, treatment,

by, unless the context otherwise requires, one or more providers of primary dental services, except that it does not include the provision of any orthodontic services or dental public health services and, [^{F10}where the course of treatment is an interim care course of treatment provided under a prototype agreement or a Capitation and Quality Scheme 2 Agreement in the context of regulation 12A of the NHS Charges Regulations (charges in respect of primary dental services provided under a prototype agreement or under a Capitation and Quality Scheme 2 Agreement)], it does not include the treatment mentioned in sub-paragraph (a);]

“dental appliance” means a denture or bridge and for the purposes of this definition, a denture includes an obturator;

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“dental care professional” means a person whose name is included in the register of dental care professionals or on the appropriate roll for dental auxiliaries established in accordance with Part II of the Dental Auxiliaries Regulations 1986 ^{M3};

[^{F11}“dental performers list”, means the list of dental practitioners maintained by the Board in accordance with regulations made under section 106 of the 2006 Act;]

“dental public health services” means services provided by the contractor by virtue of section 16CB(4)(c) of the Act ^{M4} (dental public health);

“Dentists Act” means the Dentists Act 1984 ^{M5};

“Dentists Act Order” means the Dentists Act 1984 (Amendment) Order 2005 ^{M6};

“Dentists Register” means the register maintained by the General Dental Council pursuant to section 14 of the Dentists Act ^{M7} (the dentists register and the registrar);

“domiciliary services” means a course of treatment, or part of a course of treatment, provided at a location other than—

- (a) the practice premises of any provider of primary dental services;
- (b) a mobile surgery of any provider of primary dental services; or
- (c) a prison;

“exempt person” means a person who is, by virtue of either Schedule 12ZA to the Act ^{M8} (dental charging: exemptions) or the NHS Charges Regulations, exempt from the need to pay an NHS Charge in respect of the services he has received under the agreement;

“family member” means—

- (a) a spouse;
- (b) a civil partner;
- (c) a person whose relationship with the ^{F12}... patient has the characteristics of the relationship between husband and wife, or civil partners;
- (d) a parent or step-parent;
- (e) a son;
- (f) a daughter;
- (g) a child of whom the person is—
 - (i) the guardian; or
 - (ii) the carer duly authorised by the local authority to whose care the child has been committed under the Children Act 1989 ^{M9}; or
- (h) a grandparent;

“FHSAA” means the Family Health Services Appeal Authority constituted under section 49S of the Act ^{M10} (the Family Health Services Appeal Authority);

“financial year” means the period of 12 months ending with 31st March in any year;

“GDS Contracts Regulations” means the National Health Service (General Dental Services Contracts) Regulations 2005 ^{M11};

“health care professional” has the same meaning as in section 28M of the Act ^{M12} (persons eligible to enter into GDS contracts) and “health care profession” shall be construed accordingly;

“health service body” has, unless the context otherwise requires, the meaning given to it in section 4(2) of the 1990 Act ^{M13} (NHS contracts);

“licensing body” means any body that licenses or regulates any profession;

“listed”, in relation to drugs, medicines or appliances, means such drugs, medicines or appliances as are included in a list for the time being approved by the Secretary of State for the purposes of section 41(1)(c) of the Act ^{M14} (arrangements for pharmaceutical services);

“mandatory services” means the services described in regulation 14 of the GDS Contracts Regulations;

“mobile surgery”, except where expressly provided otherwise in these Regulations, means any vehicle in which services under the agreement are to be provided;

“national disqualification” means—

- (a) a decision made by the [^{F13}First-tier Tribunal] under section 49N or under regulations corresponding to that section made under section 28X(4) of the Act ^{M15} (national disqualifications);
- (b) a decision under provisions in force in Scotland or Northern Ireland corresponding to section 49N of the Act; or
- (c) a decision by the NHS Tribunal which is treated as a national disqualification by the FHSAA by virtue of regulation 6(4)(b) of the Abolition of the National Health Service Tribunal (Consequential Provisions) Regulations 2001 ^{M16} or regulation 6(4) (b) of the Abolition of the National Health Service Tribunal (Consequential Provisions) Regulations 2002 ^{M17};

“NHS Charge” means a charge made to the patient for provision of services pursuant to the NHS Charges Regulations;

“NHS Charges Regulations” means the National Health Service (Dental Charges) Regulations 2005 ^{M18};

“NHS contract” has the meaning assigned to it in section 4 of the 1990 Act;

“NHS dispute resolution procedure” means the procedure for disputes specified in paragraphs 55 and 56 of Schedule 3;

“NHS Tribunal” means the Tribunal constituted under section 46 of the Act ^{M19} for England and Wales, and which, except for prescribed cases, had effect in relation to England only until 14th December 2001 and in relation to Wales only until 26th August 2002 ^{M20};

“normal surgery hours” means the times at which the contractor has agreed with [^{F14}the Board] (and specified in the agreement) that the surgery will be open to patients for the provision of services;

^{F15}

“orthodontic appliance” means a device used in the mouth to move or immobilise the teeth in order to correct or prevent malocclusion;

“orthodontic course of treatment” means—

- (a) a case assessment of a patient; and
- (b) the provision of any orthodontic treatment that the contractor determines should be provided to the patient in accordance with Part 2 of Schedule 1 (orthodontic services);

“orthodontic services” means the provision of orthodontic courses of treatment or the services referred to in paragraph 5(2) of Schedule 1 (repairs);

“orthodontic treatment” means treatment of, or treatment to prevent, malocclusion of the teeth and jaws, and irregularities of the teeth;

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“parent”, in relation to any child, means a parent or other person who has parental responsibility for that child;

“patient” means, unless the context otherwise requires, a person to whom the contractor is providing services under the agreement;

“patient record” means a form supplied by [^{F16}the Board] for the purpose of maintaining a record of treatment, and may include an electronic form;

“practice premises”, except where expressly provided otherwise in these Regulations, means an address specified in the agreement as one at which services are to be provided under the agreement but does not include a mobile surgery;

“prescriber” means a dental practitioner who is either engaged or employed by the contractor or is a party to the agreement;

“primary care list” means—

- (a) a list of persons performing primary medical [^{F17}services, primary ophthalmic services] or dental services under section 28X of the Act ^{M21};
- (b) a list of persons undertaking to provide general ophthalmic services or, as the case may be, pharmaceutical services prepared in accordance with regulations made under section 39, 42 or 43 of the Act ^{M22};
- (c) a list of persons approved for the purposes of assisting in the provision of any services mentioned in paragraph (b) or (d) prepared in accordance with regulations made under section 43D of the Act ^{M23};
- (d) a list of persons who undertook to provide general medical services or general dental services prepared in accordance with regulations made under sections 29 or 35 of the Act ^{M24};
- (e) a services list which fell within the meaning of section 8ZA of the National Health Service (Primary Care) Act 1997 ^{M25};
- (f) a list corresponding to a services list prepared by virtue of regulations made under section 41 of the Health and Social Care Act 2001 ^{M26}; or
- (g) a list corresponding to any of the above lists in Scotland or Northern Ireland;

“Primary Care Trust” means, except where the context otherwise requires, the Primary Care Trust which is a party, or prospective party, to an agreement;

“prison” includes a young offender institution but not a secure training centre or a naval, military or air force prison, and for the purposes of this definition—

- (a) “secure training centre” means a place in which offenders subject to detention and training orders under section 100 of the Powers of Criminal Courts (Sentencing) Act 2000 ^{M27} (offenders under 18: detention and training orders) may be detained and given training and education and prepared for their release; and
- (b) “young offender institution” means a place for the detention of offenders sentenced to detention in a young offender institution or to detention in a young offender institution as part of a longer custodial sentence, including custody for life;

“private”, in the context of services or treatment, means otherwise than under the agreement or Part 1 of the Act, and “privately” shall be construed accordingly;

“professional registration number” means the number against a dental practitioner's name in the Dentists Register;

[^{F18}“prototype agreement” means an agreement temporarily varied as part of the Prototype Agreements Scheme which contains—

- (a) the terms and conditions required under the Prototype Directions; and
- (b) the terms and conditions required under these Regulations;

“the Prototype Directions” means the National Health Service (Dental Services) (Prototype Agreements) Directions 2015;

“the Prototype SFE” means the Prototype Agreements Scheme Statement of Financial Entitlements;]

“referral notice” means the notice referred to in paragraph 10(2)(a) of Schedule 3 (referral to another contractor, a hospital or other relevant service provider for advanced mandatory, domiciliary or sedation services);

“referral service” means one or more of advanced mandatory services, domiciliary services or sedation services provided by the contractor to a patient who has, during a course of treatment, been referred to the contractor by—

- (a) another contractor; or
- (b) another provider of primary dental services under Part 1 of the Act,

for the provision of one or more of those services as part of that course of treatment;

“referral treatment plan” means a treatment plan provided pursuant to paragraph 2(1) of Schedule 1 or that plan as varied in accordance with paragraph 2(2) of that Schedule;

“register of dental care professionals” means the register maintained by the General Dental Council under section 36B of the Dentists Act ^{M28} (the dental care professionals register);

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“sedation services” means a course of treatment provided to a patient during which the contractor administers one or more drugs to a patient, which produce a state of depression of the central nervous system to enable treatment to be carried out, and during and in respect of that period of sedation—

- (a) the drugs and techniques used to provide the sedation are deployed by the contractor in a manner that ensures loss of consciousness is rendered unlikely; and
- (b) verbal contact with the patient is maintained in so far as is reasonably possible;

“trauma” means damage to teeth, gingival tissues or alveoli caused by a force arising outside the mouth, resulting in mobility, luxation, subluxation or fracture of the hard tissues or injury to the soft tissues;

“unit of dental activity” means the unit of activity which is in the agreement used to—

- (a) express the amount of; and
- (b) measure in accordance with Part 1 of Schedule 2 the provision of, mandatory services and advanced mandatory services provided under the agreement;

“unit of orthodontic activity” means the unit of activity which is in the agreement used to—

- (a) express the amount of; and
- (b) measure in accordance with Part 2 of Schedule 2 the provision of, orthodontic services provided under the agreement;

“urgent treatment” means a course of treatment that consists of one or more of the treatments listed in Schedule 4 to the NHS Charges Regulations (urgent treatment under Band 1 charge) that are provided to a person in circumstances where—

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- (a) a prompt course of treatment is provided because, in the opinion of the contractor, that person's oral health is likely to deteriorate significantly, or the person is in severe pain by reason of his oral condition; and
 - (b) treatment is provided only to the extent that is necessary to prevent that significant deterioration or address that severe pain; and
- “working day” means any day apart from Saturday, Sunday, Christmas Day, Good Friday or a bank holiday.

(2) In these Regulations—

- (a) the use of the term it in relation to the contractor shall be deemed to include a reference to a contractor that is an individual dental practitioner or two or more persons contracting together to provide services under an agreement and related expressions shall be construed accordingly; and
- (b) references to forms supplied by [^{F21}the Board] to contractors includes electronic forms and forms which are generated electronically, but does not include prescription forms.

[^{F22}(3) In these Regulations, where reference is made to an announcement or advice of the Board that relates to a disease being, or in anticipation of a disease being imminently—

- (a) pandemic; and
- (b) a serious risk or potentially serious risk to human health,

it is to that announcement or advice, which may be withdrawn at any time, as amended from time to time.]

Textual Amendments

- F1** Words in reg. 2(1) inserted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013 \(S.I. 2013/364\)](#), regs. 1(1), **23(2)(a)** (with Sch. 2)
- F2** Words in reg. 2(1) inserted (1.11.2015) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments\) \(No. 2\) Regulations 2015 \(S.I. 2015/1728\)](#), regs. 1(1), **11(a)**
- F3** Words in reg. 2(1) inserted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013 \(S.I. 2013/364\)](#), regs. 1(1), **23(2)(b)** (with Sch. 2)
- F4** Words in reg. 2(1) inserted (1.11.2015) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments\) \(No. 2\) Regulations 2015 \(S.I. 2015/1728\)](#), regs. 1(1), **11(b)**
- F5** Words in reg. 2 inserted (1.6.2011) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments\) Regulations 2011 \(S.I. 2011/1182\)](#), regs. 1, **10**
- F6** Words in reg. 2(1) inserted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013 \(S.I. 2013/364\)](#), regs. 1(1), **23(2)(c)** (with Sch. 2)
- F7** Words in reg. 2(1) inserted (1.4.2016) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Directions to the NHS Business Services Authority\) Regulations 2016 \(S.I. 2016/298\)](#), regs. 1(1), **14**
- F8** Words in reg. 2(1) substituted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013 \(S.I. 2013/364\)](#), regs. 1(1), **23(2)(d)** (with Sch. 2)
- F9** Words in reg. 2(1) substituted (1.4.2014) by [The National Health Service Primary Dental Services \(Miscellaneous Amendments\) Regulations 2014 \(S.I. 2014/443\)](#), regs. 1, **4(2)**
- F10** Words in reg. 2(1) substituted (1.11.2015) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments\) \(No. 2\) Regulations 2015 \(S.I. 2015/1728\)](#), regs. 1(1), **11(c)**

- F11** Words in reg. 2(1) substituted (1.4.2013) by The National Health Service (Primary Dental Services) (Miscellaneous Amendments and Transitional Provisions) Regulations 2013 (S.I. 2013/364), regs. 1(1), **23(2)(f)** (with Sch. 2)
- F12** Word in reg. 2(1) omitted (1.4.2006) by virtue of The National Health Service (General Dental Services Contracts and Personal Dental Services Agreements) Amendment Regulations 2006 (S.I. 2006/563), regs. 1(1), **3**
- F13** Words in reg. 2(1) substituted (18.1.2010) by The Transfer of Tribunal Functions Order 2010 (S.I. 2010/22), art. 1(1), **Sch. 3 para. 102**
- F14** Words in reg. 2(1) substituted (1.4.2013) by The National Health Service (Primary Dental Services) (Miscellaneous Amendments and Transitional Provisions) Regulations 2013 (S.I. 2013/364), regs. 1(1), **23(2)(g)** (with Sch. 2)
- F15** Words in reg. 2(1) omitted (1.4.2013) by virtue of The National Health Service (Primary Dental Services) (Miscellaneous Amendments and Transitional Provisions) Regulations 2013 (S.I. 2013/364), regs. 1(1), **23(2)(h)** (with Sch. 2)
- F16** Words in reg. 2(1) substituted (1.4.2013) by The National Health Service (Primary Dental Services) (Miscellaneous Amendments and Transitional Provisions) Regulations 2013 (S.I. 2013/364), regs. 1(1), **23(2)(i)** (with Sch. 2)
- F17** Words in reg. 2(1) inserted (1.4.2013) by The National Health Service (Primary Dental Services) (Miscellaneous Amendments and Transitional Provisions) Regulations 2013 (S.I. 2013/364), regs. 1(1), **23(2)(j)** (with Sch. 2)
- F18** Words in reg. 2(1) inserted (1.11.2015) by The National Health Service (Primary Dental Services) (Miscellaneous Amendments) (No. 2) Regulations 2015 (S.I. 2015/1728), regs. 1(1), **11(d)**
- F19** Words in reg. 2(1) omitted (1.4.2013) by virtue of The National Health Service (Primary Dental Services) (Miscellaneous Amendments and Transitional Provisions) Regulations 2013 (S.I. 2013/364), regs. 1(1), **23(2)(k)** (with Sch. 2)
- F20** Words in reg. 2(1) omitted (1.4.2013) by virtue of The National Health Service (Primary Dental Services) (Miscellaneous Amendments and Transitional Provisions) Regulations 2013 (S.I. 2013/364), regs. 1(1), **23(2)(l)** (with Sch. 2)
- F21** Words in reg. 2(2)(b) substituted (1.4.2013) by The National Health Service (Primary Dental Services) (Miscellaneous Amendments and Transitional Provisions) Regulations 2013 (S.I. 2013/364), regs. 1(1), **23(3)** (with Sch. 2)
- F22** Reg. 2(3) inserted (27.3.2020) by The National Health Service (Amendments Relating to the Provision of Primary Care Services During a Pandemic etc.) Regulations 2020 (S.I. 2020/351), regs. 1(2), **3(2)**

Marginal Citations

- M2** 1971 c. 80.
- M3** S.I. 1986/887; relevant amending instrument is S.I. 2002/1671.
- M4** Section 16CB was inserted into the Act by section 171(1) of the 2003 Act.
- M5** 1984 (c. 24) amended by section 41(1) of, and Schedule 2 paragraph 62 to, the 1997 Act, sections 31 and 37 of, and Schedule 9 to, the 2002 Act, section 187 of, and Schedule 12 to, the 2003 Act and S.I. 1987/2047, 1991/1705, 1996/1496, 1998/811 and 2840, 2001/3926, 2002/3135, 2003/833, 2004/1947 and 2005/2011.
- M6** S.I. 2005/2011.
- M7** Section 14 of the Dentists Act 1984 is prospectively substituted by the Dentists Act Order, article 6.
- M8** Schedule 12ZA was inserted into the Act by section 183(2) of the 2003 Act.
- M9** 1989 c. 41.
- M10** Section 49S was inserted into the Act by section 27(1) of the 2001 Act.
- M11** S.I. 2005/.
- M12** Section 28M was inserted into the Act by section 172(1) of the 2003 Act.
- M13** Section 4(2) was amended by the [Health Authorities Act 1995 \(c. 17\)](#), Schedule 1, paragraph 68, the [Health Act 1999 \(c. 8\)](#), Schedule 4, paragraph 76(a) and Schedule 5, the 2002 Act, Schedule 1, paragraph 40 and Schedule 5, paragraph 31.

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- M14** Section 41 of the Act was substituted by the 2001 Act, section 42(1) and amended by the 2002 Act, section 2(5) and Schedule 3, paragraphs 1 and 13, by the 2003 Act, section 184 and Schedule 11, paragraphs 7 and 18(1), (2) and (3) and by [S.I. 2003/1590](#), article 3 and the Schedule, paragraph 3.
- M15** Section 49N was inserted into the Act by section 25 of the 2001 Act. Section 28X was inserted by section 179 of the 2003 Act.
- M16** [S.I. 2001/3744](#) amended by [S.I. 2002/2469](#).
- M17** [S.I. 2002/1920](#).
- M18** [S.I. 2005/](#) .
- M19** Section 46 was revoked by the 2001 Act, section 67, Schedule 5, paragraph 5 and Schedule 6, Part 1.
- M20** See [S.I. 2001/3738](#), article 2(5) and (6)(b), which sets out the prescribed cases for England and [S.I. 2002/1919](#), article 2(2) and (3)(b), which sets out the prescribed cases for Wales.
- M21** Section 28X was inserted into the Act by section 179(1) of the 2003 Act.
- M22** Section 39 is amended by sections 1 and 2 of, paragraph 52 of Schedule 1 to, the [Health Services Act 1980 \(c. 53\)](#); sections 1 and 24 of, Schedule 9 to, the [Health and Social Security Act 1984 \(c. 48\)](#); section 9 of the 1999 Act; section 20 of the 2001 Act; and section 2 of, paragraphs 1 and 12 of Schedule 2 to, the 2002 Act. Section 42 is amended by section 3 of the [National Health Service \(Amendment\) Act 1986 \(c. 66\)](#); section 2 of, paragraph 30 of Schedule 1 to, the [Health Authorities Act 1995 \(c. 17\)](#); sections 20, 23, 43 and 67 of, Schedule 6 to, the 2001 Act; and section 2 of, paragraphs 1 and 16 of Schedule 2 to, the 2002 Act. Section 43 is amended by section 21 to the Health Services Act 1980; section 66 of, paragraph 18 of Schedule 9 to, the 1990 Act; section 2 of, paragraph 31 of Schedule 1 to, the Health Authorities Act 1995; sections 29 and 41 of, paragraph 14 of Schedule 2 to, the 1997 Act; section 1 of, paragraph 6 of Schedule 1 to, the [Pharmacists \(Fitness to Practice\) Act 1997 \(c. 19\)](#); section 20 of the 2001 Act; sections 2 and 42 of, paragraphs 1 and 17 of Schedule 2 to, the 2002 Act; and section 184 of, paragraphs 7 and 19 of Schedule 11 to, the 2003 Act.
- M23** Section 43D was inserted into the Act by section 24 of the 2001 Act.
- M24** Sections 29 and 36 were repealed by sections 175(2) and 196 of, and Schedule 14 Part 4 to, the 2003 Act.
- M25** [1997 c. 46](#). Section 8ZA was inserted into this Act by section 26(2) of the Health and Social Care Act 2001 and repealed by section 196 and Schedule 14 Part 4 to the 2003 Act.
- M26** [2001 c. 15](#).
- M27** [2000 c. 6](#).
- M28** Section 36B is prospectively inserted into the Dentists Act 1984 by article 29 of the Dentists Act Order.

PART 2 E+W

CONTRACTORS

[^{F23}Conditions: introductory E+W

3. Subject to the provision of any scheme made by the Secretary of State under section 300 (transfer schemes) or any order made under section 303 (power to make consequential provision) of the 2012 Act, the Board may only enter into an agreement if the conditions set out in—

- (a) regulation 4; and
- (b) in the case of an agreement to be entered into with a dental corporation on or after the coming into force for all purposes of article 39 of the Dentists Act Order (substitution of sections 43 and 44), regulation 5,

are met.]

Textual Amendments

- F23** Reg. 3 substituted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013 \(S.I. 2013/364\)](#), regs. 1(1), [24](#) (with [Sch. 2](#))

General conditions relating to all agreements **E+W**

4.—(1) [^{F24}The Board] may make an agreement with an individual falling within section 28D(1)(b) to (d) if that individual does not fall within paragraph (3).

[^{F25}(2) The Board may make an agreement with a person only if—

- (a) in the case of a dental corporation, that dental corporation, or any director, chief executive or secretary of that corporation; or
- (b) in the case of a company limited by shares, that company limited by shares, or any director, chief executive or secretary of that company; or
- (c) in the case of a limited liability partnership, that limited liability partnership, or any member of that partnership,

does not fall within paragraph (3).]

(3) A person falls within this paragraph if—

- (a) he or it [^{F26}(in the case of a dental corporation, a company limited by shares, or a limited liability partnership)] is the subject of a national disqualification;
- (b) subject to paragraph (4), he or it is disqualified or suspended (other than by an interim suspension order or direction pending an investigation) from practising by any licensing body anywhere in the world;
- (c) within the period of five years prior to the date the agreement is to be commenced or, if earlier, the date on which the agreement is to be signed—
 - (i) he has been dismissed (otherwise than by reason of redundancy) from any employment by a health service body, unless he has subsequently been employed by that health service body or another health service body and paragraph (5) applies to him or that dismissal was the subject of a finding of unfair dismissal by any competent tribunal or court; or
 - (ii) he or it has been removed from, or refused admission to, a primary care list by reason of inefficiency, fraud or unsuitability (within the meaning of section 49F(2), (3) and (4) of the Act ^{M29} respectively) unless his or its name has subsequently been included in such a list;
- (d) he has been convicted in the United Kingdom of—
 - (i) murder; or
 - (ii) a criminal offence other than murder, committed on or after 14th December 2001, and has been sentenced to a term of imprisonment of over six months;
- (e) subject to paragraph (6), he has been convicted outside the United Kingdom of an offence—
 - (i) which would, if committed in England and Wales, constitute murder; or
 - (ii) committed on or after 14th December 2001, which would if committed in England and Wales, constitute a criminal offence other than murder, and been sentenced to a term of imprisonment of over six months;

Status: Point in time view as at 14/09/2020.

Changes to legislation: There are currently no known outstanding effects for the The National Health Service (Personal Dental Services Agreements) Regulations 2005. (See end of Document for details)

- (f) he has been convicted of an offence referred to in Schedule 1 to the Children and Young Persons Act 1933 ^{M30} (offences against children and young persons with respect to which special provisions of this Act apply) or Schedule 1 to the Criminal Procedure (Scotland) Act 1995 ^{M31} (offences against children under the age of 17 years to which special provisions apply) committed on or after 1st April 2006;
- (g) he or it has—
- (i) been [^{F27}made] bankrupt or had sequestration of his estate awarded [^{F28}or is a person in relation to whom a moratorium period under a debt relief order (under Part 7A of the Insolvency Act 1986) applies] unless ^{F29}... he has been discharged [^{F30}from the bankruptcy or the sequestration] or the bankruptcy order has been annulled;
 - (ii) been made the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A [^{F31}, or a debt relief restrictions order or interim debt relief restrictions order under Schedule 4ZB,] to the Insolvency Act 1986 ^{M32} unless that order has ceased to have effect or has been annulled; or
 - (iii) made a composition or arrangement with, or granted a trust deed for, his or its creditors unless he or it has been discharged in respect of it;
- (h) an administrator, administrative receiver or receiver is appointed in respect of it;
- (i) he has within the period of five years prior to the date the agreement is to be commenced or, if earlier, the date on which the agreement is to be signed—
- (i) been removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity for which he was responsible or to which he was privy, or which he by his conduct contributed to or facilitated;
 - (ii) been removed under section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 ^{M33} (powers of the Court of Session to deal with management of charities), [^{F32}or under section 34 of the Charities and Trustee Investment (Scotland) Act 2005 (powers of Court of Session),] from being concerned in the management or control of any body; or
 - (iii) been subject to a disqualification order under the Company Directors Disqualification Act 1986 ^{M34}, the Companies (Northern Ireland) Order 1986 ^{M35} or to an order made under section 429(2)(b) of the Insolvency Act 1986 ^{M36} (failure to pay under county court administration order).
- [^{F33}(4) A person shall not fall within paragraph (3)(b) where the Board is satisfied that the disqualification or suspension from practising is imposed by a licensing body outside the United Kingdom and it does not make that person unsuitable to be—
- (a) a party to an agreement;
 - (b) a director, chief executive or secretary of a dental corporation, in the case of an agreement with a dental corporation;
 - (c) a director, chief executive or secretary of a company limited by shares, in the case of an agreement with a company limited by shares; or
 - (d) a member of a limited liability partnership, in the case of an agreement with a limited liability partnership.]
- (5) Where a person has been employed as a member of a health care profession any subsequent employment must also be as a member of that profession.

[^{F34}(6) A person shall not fall within paragraph (3)(e) where the Board is satisfied that the conviction does not make the person unsuitable to be—

- (a) a party to an agreement;
- (b) a director, chief executive or secretary of a dental corporation, in the case of an agreement with a dental corporation;
- (c) a director, chief executive or secretary of a company limited by shares, in the case of an agreement with a company limited by shares; or
- (d) a member of a limited liability partnership, in the case of an agreement with a limited liability partnership.]

[^{F35}(7) For the purposes of paragraph (3)(c)(i), a health service body includes a Strategic Health Authority or a Primary Care Trust which was established before the coming into force of sections 33 and 34 of the 2012 Act.]

Textual Amendments

- F24** Words in reg. 4(1) substituted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013](#) (S.I. 2013/364), regs. 1(1), **25(2)** (with Sch. 2)
- F25** Reg. 4(2) substituted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013](#) (S.I. 2013/364), regs. 1(1), **25(3)** (with Sch. 2)
- F26** Words in reg. 4(3)(a) substituted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013](#) (S.I. 2013/364), regs. 1(1), **25(4)(a)** (with Sch. 2)
- F27** Word in reg. 4(3)(g)(i) substituted (6.4.2016) by [The Enterprise and Regulatory Reform Act 2013 \(Consequential Amendments\) \(Bankruptcy\) and the Small Business, Enterprise and Employment Act 2015 \(Consequential Amendments\) Regulations 2016](#) (S.I. 2016/481), reg. 1, **Sch. 2 para. 13**
- F28** Words in reg. 4(3)(g)(i) inserted (1.10.2012) by [The Tribunals, Courts and Enforcement Act 2007 \(Consequential Amendments\) Order 2012](#) (S.I. 2012/2404), art. 1, **Sch. 3 para. 48(2)(a)(i)** (with art. 7)
- F29** Words in reg. 4(3)(g)(i) omitted (1.10.2012) by virtue of [The Tribunals, Courts and Enforcement Act 2007 \(Consequential Amendments\) Order 2012](#) (S.I. 2012/2404), art. 1, **Sch. 3 para. 48(2)(a)(ii)** (with art. 7)
- F30** Words in reg. 4(3)(g)(i) inserted (1.10.2012) by [The Tribunals, Courts and Enforcement Act 2007 \(Consequential Amendments\) Order 2012](#) (S.I. 2012/2404), art. 1, **Sch. 3 para. 48(2)(a)(iii)** (with art. 7)
- F31** Words in reg. 4(3)(g)(ii) inserted (1.10.2012) by [The Tribunals, Courts and Enforcement Act 2007 \(Consequential Amendments\) Order 2012](#) (S.I. 2012/2404), art. 1, **Sch. 3 para. 48(2)(b)** (with arts. 7, 8)
- F32** Words in reg. 4(3)(i)(ii) inserted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013](#) (S.I. 2013/364), regs. 1(1), **25(4)(b)** (with Sch. 2)
- F33** Reg. 4(4) substituted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013](#) (S.I. 2013/364), regs. 1(1), **25(5)** (with Sch. 2)
- F34** Reg. 4(6) substituted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013](#) (S.I. 2013/364), regs. 1(1), **25(6)** (with Sch. 2)
- F35** Reg. 4(7) inserted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013](#) (S.I. 2013/364), regs. 1(1), **25(7)** (with Sch. 2)

Status: Point in time view as at 14/09/2020.

Changes to legislation: There are currently no known outstanding effects for the The National Health Service (Personal Dental Services Agreements) Regulations 2005. (See end of Document for details)

Marginal Citations

- M29** Section 49F was inserted into the Act by section 25 of the 2001 Act and amended by the 2002 Act, Schedule 2, paragraph 21 and the 2003 Act, Schedule 14, Part 2.
- M30** 1933 c. 12; as amended by the [Domestic Violence, Crime and Victims Act 2004 \(c. 28\)](#), section 58(1), Schedule 10, paragraph 2; the [Sexual Offences Act 2003 \(c. 42\)](#), section 139 and Schedule 6, paragraph 7; the [Criminal Justice Act 1988 \(c. 33\)](#), section 170 and Schedule 15, paragraph 8 and Schedule 16, paragraph 16; and the [Sexual Offences Act 1956 \(c. 69\)](#), sections 48 and 51 and Schedules 3 and 4; and modified by the [Criminal Justice Act 1988](#), section 170(1), Schedule 15, paragraph 9.
- M31** 1995 c. 46.
- M32** 1986 c. 45. Schedule 4A was inserted by section 257 of, and Schedule 20 to, the [Enterprise Act 2002 \(c. 40\)](#).
- M33** 1990 c. 40.
- M34** 1986 c. 46 as amended by the [Insolvency Act 2000 \(c. 39\)](#).
- M35** S.I. 1986/1032 (N.I.6).
- M36** 1986 c. 45.

Additional conditions relating to agreements [^{F36}with dental corporations or companies limited by shares] **E+W**

5.—(1) Subject to paragraph (2), it is a condition in the case of an agreement to be entered into with [^{F37}a dental corporation or a company limited by shares] on or after the date of the coming into force of article 39 of the Dentists Act Order, that no—

- (a) offence has been or is being committed under section 43 of the Dentists Act; or
- (b) financial penalty has been imposed under section 43B or 44 of the Dentists Act.

(2) Paragraph (1) shall not apply if [^{F38}the Board] is satisfied that any offence under section 43 or penalty imposed under section 43B or 44 of the Dentists Act does not make [^{F39}a dental corporation or a company limited by shares] unsuitable to be a contractor, whether by virtue of the time that has elapsed since any conviction or penalty was imposed, or otherwise.

Textual Amendments

- F36** Words in reg. 5 heading substituted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013 \(S.I. 2013/364\)](#), regs. 1(1), **26(c)** (with Sch. 2)
- F37** Words in reg. 5(1) substituted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013 \(S.I. 2013/364\)](#), regs. 1(1), **26(a)** (with Sch. 2)
- F38** Words in reg. 5(2) substituted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013 \(S.I. 2013/364\)](#), regs. 1(1), **26(b)** (with Sch. 2)
- F39** Words in reg. 5(2) substituted (1.4.2013) by virtue of [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013 \(S.I. 2013/364\)](#), regs. 1(1), **26(a)** (with Sch. 2)

Reasons **E+W**

6.—(1) Where [^{F40}the Board] is of the view that the conditions in regulation 4 or 5 for entering into an agreement are not met it shall notify in writing the person or persons intending to enter into

the agreement of its view and its reasons for that view and of his, its, or their right of appeal under regulation 7.

- [^{F41}(2) The Board shall also notify in writing of its view and its reasons for that view to—
- (a) a director, chief executive or secretary of a dental corporation;
 - (b) a director, chief executive or secretary of a company limited by shares; or
 - (c) the members of a limited liability partnership,

who is, or are, notified under paragraph (1) where its reasons for the decision relates to that person or persons.]

Textual Amendments

- F40** Words in reg. 6(1) substituted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013 \(S.I. 2013/364\)](#), regs. 1(1), **27(a)** (with Sch. 2)
- F41** Reg. 6(2) substituted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013 \(S.I. 2013/364\)](#), regs. 1(1), **27(b)** (with Sch. 2)

Appeal **E+W**

7. A person who has been served with a notice under regulation 6(1) may appeal to the [^{F42}First-tier Tribunal] against the decision of [^{F43}the Board] that the conditions in regulation 4 or 5 are not met ^{F44}... .

Textual Amendments

- F42** Words in reg. 7 substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), **Sch. 3 para. 103(a)**
- F43** Words in reg. 7 substituted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013 \(S.I. 2013/364\)](#), regs. 1(1), **28** (with Sch. 2)
- F44** Words in reg. 7 omitted (18.1.2010) by virtue of [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), **Sch. 3 para. 103(b)**

PART 3 **E+W**

PRE-AGREEMENT DISPUTE RESOLUTION

Pre-agreement disputes **E+W**

8.—(1) Subject to paragraphs (2) and (3), if in the course of negotiations intending to lead to an agreement the prospective parties to that agreement are unable to agree on a particular term of the agreement, either party may, subject to paragraph (2), refer the dispute to the Secretary of State to consider and determine the matter.

(2) Both parties to the prospective agreement must make every reasonable effort to communicate and co-operate with each other with a view to resolving a dispute arising during the course of negotiations, before referring the dispute for determination under paragraph (1).

Status: Point in time view as at 14/09/2020.

Changes to legislation: There are currently no known outstanding effects for the The National Health Service (Personal Dental Services Agreements) Regulations 2005. (See end of Document for details)

(3) Disputes referred to the Secretary of State in accordance with paragraph (1), or section 4(4) of the 1990 Act, shall be considered and determined in accordance with the provisions of paragraphs 55(4) to 55(13) and 56(1) of Schedule 3, and paragraph (4) (where it applies) of this regulation.

(4) In the case of a dispute referred to the Secretary of State under paragraph (1), the determination—

- (a) may specify terms to be included in the proposed agreement;
- (b) may require [^{F45}the Board] to proceed with the proposed agreement, but may not require the proposed contractor to proceed with the proposed agreement; and
- (c) shall be binding upon the prospective parties to the agreement.

Textual Amendments

F45 Words in reg. 8(4)(b) substituted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013 \(S.I. 2013/364\)](#), regs. 1(1), **29** (with Sch. 2)

PART 4 **E+W**

HEALTH SERVICE BODY STATUS

Health service body status **E+W**

9.—^{F46}(1) A contractor shall be regarded as a health service body for the purposes of section 4 of the 1990 Act from the date it makes an agreement unless—

- (a) in the case of an agreement with a single individual, that individual;
- (b) in the case of an agreement with a dental corporation, that corporation;
- (c) in the case of a company limited by shares, that company; or
- (d) in the case of a limited liability partnership, that partnership,

object in a written notice served on the Board at any time prior to the agreement being made.]

(2) Where a contractor is to be regarded as a health service body for the purposes of section 4 of the 1990 Act pursuant to paragraph (1), any change in the parties comprising the contractor shall not affect the health service body status of the contractor.

(3) If, pursuant to paragraph (1) or (4), a contractor is to be regarded as a health service body, that fact shall not affect the nature of, or any rights or liabilities arising under, any other agreement or contract with a health service body entered into by that contractor before the date on which the contractor is to be so regarded.

(4) A contractor may at any time request a variation of the agreement to include or remove provision from the agreement that the agreement is an NHS contract, and if it does so—

- (a) [^{F47}the Board] shall agree to the variation; and
- (b) the procedure in paragraph 60(1) of Schedule 3 (variation of a contract: general) shall apply.

(5) Where, pursuant to paragraph (4), [^{F48}the Board] agrees to a variation of the agreement, the contractor shall—

- (a) be regarded; or
- (b) subject to paragraph (7), cease to be regarded,

as a health service body for the purposes of section 4 of the 1990 Act from the date that variation takes effect pursuant to paragraph 60(1) of Schedule 3.

(6) Subject to paragraph (7), a party or parties who were to be regarded as a health service body pursuant to paragraphs (1) or (4), as the case may be, shall cease to be a health service body for the purposes of section 4 of the 1990 Act if the agreement is terminated.

(7) Where a contractor ceases to be a health service body pursuant to—

(a) paragraph (5) or (6), it shall continue to be regarded as a health service body for the purposes of being a party to any other NHS contract entered into after it became a health service body but before the date on which the contractor ceased to be a health service body (for which purposes it ceases to be such a body on the termination of that NHS contract);

^{F49}(b) paragraph (5), where it or the Board—

(i) has referred any matter to the NHS dispute resolution procedure before it ceases to be a health service body, or

(ii) refers any matter to the NHS dispute resolution procedure, in accordance with paragraph 54(1)(a) of Schedule 3, after it ceases to be a health service body,

the contractor is to continue to be treated as a health service body (and accordingly the agreement is to continue to be regarded as an NHS contract) for the purposes of the consideration and determination of the dispute; or]

(c) paragraph (6), it shall continue to be regarded as a health service body for the purposes of the NHS dispute resolution procedure where that procedure has been commenced—

(i) before the termination of the agreement; or

(ii) after the termination of the agreement, whether in connection with, or arising out of, the termination of the agreement or otherwise,

for which purposes it ceases to be such a body on the conclusion of that procedure.

Textual Amendments

- F46** Reg. 9(1) substituted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013 \(S.I. 2013/364\)](#), regs. 1(1), **30(a)** (with Sch. 2)
- F47** Words in reg. 9(4)(a) substituted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013 \(S.I. 2013/364\)](#), regs. 1(1), **30(b)** (with Sch. 2)
- F48** Words in reg. 9(5) substituted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013 \(S.I. 2013/364\)](#), regs. 1(1), **30(b)** (with Sch. 2)
- F49** Reg. 9(7)(b) substituted (1.7.2015) by [The National Health Service \(Primary Dental Services and General Ophthalmic Services\) \(Miscellaneous Amendments and Transitional Provision\) Regulations 2015 \(S.I. 2015/416\)](#), regs. 1(3), **6** (with reg. 12)

PART 5 E+W**AGREEMENTS: REQUIRED TERMS****NHS contracts E+W**

10. If the contractor is to be regarded as a health service body, the agreement must state that it is an NHS contract.

Additional services E+W

11. If the agreement includes the provision of additional services, it must contain in relation to each such service as is included in the agreement, terms that have the same effect as those specified in Schedule 1 in so far as they are relevant to that service.

Agreements: general E+W

12.—(1) An agreement must specify—

- (a) the services to be provided by the contractor;
- (b) the duration of the agreement;
- (c) to whom such services are to be provided; and
- (d) the postal address of each of the premises to be used by the contractor or any sub-contractor for the provision of such services, or, if the contractor is to provide services from a mobile surgery, that fact.

(2) The premises referred to in paragraph (1)(d) do not include any place in which a patient is residing.

Units of dental activity E+W

13.—(1) [^{F50}Subject to [^{F51}regulation 20C],] where an agreement includes the provision of mandatory or advanced mandatory services, the agreement must specify the number of units of dental activity to be provided by the contractor—

- (a) where the agreement begins on 1st April, in each financial year or, by virtue of the duration of the agreement, part financial year; or
- (b) where the agreement begins on a date other than 1st April, in the remainder of the financial year in which the agreement begins, and in each financial year thereafter.

(2) [^{F50}Subject to [^{F51}regulation 20C],] an agreement must contain terms which have the effect of those specified in Part 1 of Schedule 2 in relation to the calculation of the number of units of dental activity that the contractor has provided under the agreement.

Textual Amendments

F50 Words in reg. 13(1)(2) substituted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013 \(S.I. 2013/364\)](#), regs. 1(1), **31** (with Sch. 2)

F51 Words in reg. 13(1)(2) substituted (1.4.2016) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Directions to the NHS Business Services Authority\) Regulations 2016 \(S.I. 2016/298\)](#), regs. 1(1), **15**

Units of orthodontic activity **E+W**

14.—(1) Where an agreement includes the provision of orthodontic services, the agreement must specify the number of units of orthodontic activity to be provided by the contractor—

- (a) where the agreement begins on 1st April, in each financial year or, by virtue of the duration of the agreement, part financial year; or
- (b) where the agreement begins on a date other than 1st April, in the remainder of the financial year in which the agreement begins, and in each financial year or part financial year thereafter.

(2) Where paragraph (1) applies, the agreement must also contain terms which have the effect of those specified in Part 2 of Schedule 2 in relation to the calculation of how many units of orthodontic activity a contractor has provided under the agreement.

^{F52}Units of dental activity for contractors who elect to enter into a prototype agreement **E+W**

14A.—(1) [^{F53}Subject to paragraph (3), where a contractor] has elected to enter into a prototype agreement, the prototype agreement must specify the number of units of dental activity to be provided by the contractor—

- (a) where the prototype agreement begins on 1st April, in each financial year; or
- (b) where the prototype agreement begins on a date other than 1st April, in the remainder of the financial year in which the prototype agreement begins, and in each financial year thereafter.

(2) A prototype agreement must contain terms which have the effect of those specified in Schedule 2A in relation to the calculation of the number of units of dental activity to be provided by the contractor under the prototype agreement.

[^{F54}(3) This regulation does not apply where the contractor is a CDS prototype contractor.]

Textual Amendments

- F52** Regs. 14A-14C inserted (1.11.2015) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments\) \(No. 2\) Regulations 2015 \(S.I. 2015/1728\)](#), regs. 1(1), **13**
- F53** Words in reg. 14A(1) substituted (1.4.2016) by [The National Health Service \(Primary Dental Services Miscellaneous Amendments and Directions to the NHS Business Services Authority\) Regulations 2016 \(S.I. 2016/298\)](#), regs. 1(1), **16(a)**
- F54** Reg. 14A(3) inserted (1.4.2016) by [The National Health Service \(Primary Dental Services Miscellaneous Amendments and Directions to the NHS Business Services Authority\) Regulations 2016 \(S.I. 2016/298\)](#), regs. 1(1), **16(b)**

Capitated patient figures for contractors who elect to enter into a prototype agreement **E+W**

14B. Where a contractor has elected to enter into a prototype agreement, [^{F55}except where the contractor is a CDS prototype contractor,] the prototype agreement must specify the number of patients to whom the contractor is expected to have provided primary dental services (known as the capitated patient figure) by the end of each financial year.

Status: Point in time view as at 14/09/2020.

Changes to legislation: There are currently no known outstanding effects for the The National Health Service (Personal Dental Services Agreements) Regulations 2005. (See end of Document for details)

Textual Amendments

- F52** Regs. 14A-14C inserted (1.11.2015) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments\) \(No. 2\) Regulations 2015 \(S.I. 2015/1728\)](#), regs. 1(1), **13**
- F55** Words in reg. 14B inserted (1.4.2016) by [The National Health Service \(Primary Dental Services Miscellaneous Amendments and Directions to the NHS Business Services Authority\) Regulations 2016 \(S.I. 2016/298\)](#), regs. 1(1), **17**

Capitated patients **E+W**

14C.—(1) [^{F56}Subject to paragraph (3), where a contractor] has elected to enter into a prototype agreement, on any day (“the relevant day”) a patient is a capitated patient if that patient has been provided with a banded course of treatment by the contractor (C1) within a period of three years immediately preceding that day, provided that—

- (a) the banded course of treatment has not been provided by a foundation trainee;
 - (b) the patient has not been referred to C1 for the banded course of treatment by another primary dental services contractor; and
 - (c) the patient was not subsequently provided with a banded course of treatment before the relevant day by another primary dental services contractor (C2), unless the patient was referred to C2 by C1 for that banded course of treatment.
- (2) For the purposes of this regulation—
- (a) a banded course of treatment does not include the provision of an urgent course of treatment; and
 - (b) “foundation trainee” has the meaning given in Section 12 of the General Dental Services Statement of Financial Entitlements 2013 (glossary of terms).

[^{F57}(3) This regulation does not apply where the contractor is a CDS prototype contractor.]]

Textual Amendments

- F52** Regs. 14A-14C inserted (1.11.2015) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments\) \(No. 2\) Regulations 2015 \(S.I. 2015/1728\)](#), regs. 1(1), **13**
- F56** Words in reg. 14C(1) substituted (1.4.2016) by [The National Health Service \(Primary Dental Services Miscellaneous Amendments and Directions to the NHS Business Services Authority\) Regulations 2016 \(S.I. 2016/298\)](#), regs. 1(1), **18(a)**
- F57** Reg. 14C(3) inserted (1.4.2016) by [The National Health Service \(Primary Dental Services Miscellaneous Amendments and Directions to the NHS Business Services Authority\) Regulations 2016 \(S.I. 2016/298\)](#), regs. 1(1), **18(b)**

Under-provision of units of dental activity or units of orthodontic activity **E+W**

15.—(1) The agreement shall provide that [^{F58}the Board] shall not, pursuant to Part 9 of Schedule 3 (variation and termination of agreements), be entitled to take any action for breach of a term of the agreement giving effect to regulation 13 or 14 (including termination of the agreement) where paragraph (2) applies.

- (2) Subject to paragraph (4), this paragraph applies where the contractor has failed to provide—
- (a) the number of units of dental activity; or

(b) the number of units of orthodontic activity,
it is contracted to provide pursuant to a term of the agreement giving effect to regulation 13 or 14 where—

- (i) that failure amounts to 4 per cent or less of the total number of units of dental activity or units of orthodontic activity that ought to have been provided; and
- (ii) the contractor agrees to provide and does so provide the units it has failed to provide within such period as [^{F59}the Board] specifies in writing, such period to consist of not less than 60 days.

(3) Paragraphs (1) and (2) shall not prevent [^{F60}the Board] from taking action under Part 9 of Schedule 3 for breach of contract (including terminating the agreement) on other grounds.

(4) In the case of an agreement with a duration period of less than 12 months, the period of 60 days in paragraph (2)(ii) may not apply if [^{F61}the Board] considers it not appropriate or considers that another period of less than 60 days should apply.

Textual Amendments

- F58** Words in reg. 15(1) substituted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013 \(S.I. 2013/364\)](#), regs. 1(1), **32** (with Sch. 2)
- F59** Words in reg. 15(2) substituted (1.4.2013) by virtue of [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013 \(S.I. 2013/364\)](#), regs. 1(1), **32** (with Sch. 2)
- F60** Words in reg. 15(3) substituted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013 \(S.I. 2013/364\)](#), regs. 1(1), **32** (with Sch. 2)
- F61** Words in reg. 15(4) substituted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013 \(S.I. 2013/364\)](#), regs. 1(1), **32** (with Sch. 2)

Domiciliary services and sedation services **E+W**

16. Where an agreement includes the provision of domiciliary services or sedation services, the agreement must specify the number of courses of treatment that the contractor is—

- (a) to provide; or
- (b) to contribute to where provided as a referral service,

that involve the provision of domiciliary services or sedation services—

- (i) where the contract begins on 1st April, in each financial year; or
- (ii) where the contract begins on a date other than 1st April, in the remainder of the financial year in which the contract begins, and in each financial year thereafter for which the contract continues.

Finance **E+W**

17.—(1) [^{F62}Subject to [^{F63}regulation 20C],] the agreement must contain a term which has the effect of requiring—

- (a) [^{F64}the Board] to make payments to the contractor under the agreement promptly and in accordance with both the terms of the agreement and any other conditions relating to the payment contained in directions given by the Secretary of State under section 28E(3A) of the Act ^{M37} (personal medical or dental services: regulations);

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Changes to legislation: There are currently no known outstanding effects for the The National Health Service (Personal Dental Services Agreements) Regulations 2005. (See end of Document for details)

- (b) the contractor to make payments promptly to [^{F64}the Board] and in accordance with both the terms of the agreement and any other conditions relating to the payment contained in directions given by the Secretary of State under section 17 (Secretary of State's directions: exercise of functions) or 28E(3A) of the Act.
- (2) The obligation referred to in paragraph (1) is subject to any right the Relevant Body has to set off against an amount payable to the contractor an amount that—
- (a) is owed by the contractor to [^{F65}the Board] under the agreement;
- (b) has been paid to the contractor owing to an error or in circumstances when it was not due; or
- (c) [^{F66}the Board] may withhold from the contractor in accordance with the terms of the agreement or any other applicable provisions contained in directions given by the Secretary of State under section 28E(3A).
- (3) [^{F67}Subject to [^{F68}regulation 20C],] the agreement must contain a term to the effect that where, pursuant to directions under section 17 or 28E(3A) of the Act, [^{F69}the Board] is required to make a payment to a contractor under an agreement but subject to conditions, those conditions are to be a term of the agreement.

Textual Amendments

- F62** Words in reg. 17(1) substituted (1.11.2015) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments\) \(No. 2\) Regulations 2015 \(S.I. 2015/1728\)](#), regs. 1(1), **14**
- F63** Words in reg. 17(1) substituted (1.4.2016) by [The National Health Service \(Primary Dental Services\) Miscellaneous Amendments and Directions to the NHS Business Services Authority\) Regulations 2016 \(S.I. 2016/298\)](#), regs. 1(1), **19**
- F64** Words in reg. 17(1)(a)(b) substituted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013 \(S.I. 2013/364\)](#), regs. 1(1), **33(b)** (with Sch. 2)
- F65** Words in reg. 17(2)(a) substituted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013 \(S.I. 2013/364\)](#), regs. 1(1), **33(b)** (with Sch. 2)
- F66** Words in reg. 17(2)(c) substituted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013 \(S.I. 2013/364\)](#), regs. 1(1), **33(b)** (with Sch. 2)
- F67** Words in reg. 17(3) substituted (1.11.2015) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments\) \(No. 2\) Regulations 2015 \(S.I. 2015/1728\)](#), regs. 1(1), **14**
- F68** Words in reg. 17(3) substituted (1.4.2016) by [The National Health Service \(Primary Dental Services\) Miscellaneous Amendments and Directions to the NHS Business Services Authority\) Regulations 2016 \(S.I. 2016/298\)](#), regs. 1(1), **19**
- F69** Words in reg. 17(3) substituted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013 \(S.I. 2013/364\)](#), regs. 1(1), **33(c)** (with Sch. 2)

Marginal Citations

- M37** Section 17 of the Act was substituted by the [Health Act 1999 \(c. 8\)](#), section 12(1), and amended by the 2001 Act, section 67(1) and Schedule 5, paragraph 5(1) and (3) and the 2002 Act, section 1(3) and Schedule 1, paragraph 7. Section 28E(3A) was inserted by section 177(8) of the 2003 Act.

[^{F70}Publication of information about earnings **E+W**

17A.—(1) Using the information that it has obtained to make the payments to contractors mentioned in regulation 17(1)(a), the Board must publish the information specified in paragraph (2).

(2) The information specified in this paragraph is, in respect of each agreement—

- (a) the number of dental performers who during the previous financial year performed services under the agreement;
- (b) a figure representing the aggregate net pensionable earnings in respect of the previous financial year of those dental performers under the agreement, taking into account the amount by which the employing authority of those performers would reduce those earnings to take account of expenses; and
- (c) an average figure of net pensionable earnings of each performer based on the figures referred to in sub-paragraphs (a) and (b).

(3) In relation to the financial year ending on 31st March 2015, the information specified in paragraph (2) must be published by 31st May 2016; and for each subsequent financial year, it must be published before the end of the financial year following the financial year to which the information relates.

(4) The NHSBSA is directed to perform the Board’s functions under this regulation, and must publish the information on its website in such form and such manner as it sees fit.

(5) For the purposes of this regulation, net pensionable earnings are to be calculated in accordance with paragraph 3(2B) (meaning of pensionable earnings) of Schedule 2 (medical and dental practitioners) to the National Health Service Pension Scheme Regulations 1995, regulation 3.A.7(4) (meaning of pensionable earnings) of the National Health Service Pension Scheme Regulations 2008 and paragraph 3 (dental practitioner) of Schedule 10 (practitioner income) to the National Health Service Pension Scheme Regulations 2015.

(6) For the purposes of this regulation—

“dental performer” means a dental practitioner whose name is included in the dental performers list;

“employing authority” has the meaning given in—

- (a) regulation A2 (interpretation) of the National Health Service Pension Scheme Regulations 1995;
- (b) regulation 2.A.1 (interpretation: general) of the National Health Service Pension Scheme Regulations 2008; and
- (c) regulation 33(6) (contributions by employing authorities) of the National Health Service Pension Scheme Regulations 2015; and

“the NHSBSA” means the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG).]

Textual Amendments

F70 Reg. 17A inserted (1.4.2016) by [The National Health Service \(Primary Dental Services Miscellaneous Amendments and Directions to the NHS Business Services Authority\) Regulations 2016 \(S.I. 2016/298\)](#), regs. 1(1), **20**

Fees, charges and financial interests of the contractor **E+W**

18.—(1) The agreement must contain terms relating to fees, charges and financial interests which have the same effect as those set out in paragraphs (2) to (4).

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Changes to legislation: There are currently no known outstanding effects for the The National Health Service (Personal Dental Services Agreements) Regulations 2005. (See end of Document for details)

- (2) The contractor shall not, either itself or through any other person, demand or accept a fee or other remuneration for its own or another's benefit from—
- (a) any patient of its for the provision of any treatment under the agreement, except as otherwise provided in the NHS Charges Regulations; or
 - (b) any person who has requested services under the agreement for himself or a family member, as a prerequisite to providing services under the agreement to that person or his family member.
- (3) The agreement must contain a term that—
- (a) only permits the contractor to collect from any patient of its any charge that that patient is required to pay by virtue of the NHS Charges Regulations, in accordance with the requirements of those Regulations; and
 - (b) provides for obligations imposed on the contractor by virtue of the NHS Charges Regulations to be terms of the agreement.
- (4) The agreement must contain a term that requires the contractor in making a decision—
- (a) as to what services to recommend or provide to a patient who has sought services under the agreement; or
 - (b) to refer a patient for other services by another contractor, hospital or other relevant service provider under Part 1 of the Act,

to do so without regard to its own financial interests.

(5) The term “patient” in paragraph (3) shall have the same meaning as in regulation 2(1) of the NHS Charges Regulations.

Arrangements on termination **E+W**

19. An agreement shall make suitable provision for arrangements on termination of an agreement including the consequences (whether financial or otherwise) of the agreement ending.

Other contractual terms **E+W**

20.—(1) [^{F71}Subject to [^{F72}regulation 20C],] an agreement must, unless it is of a type or nature to which a particular provision does not apply, contain other terms which have the same effect as those specified in Schedule 3 except paragraphs 55(4) to 55(13) and 56 and Schedule 5.

(2) The paragraphs specified in paragraph (1) shall have effect in relation to the matters set out in those paragraphs.

(3) Where an agreement does not commence on 1st April in any financial year or the duration of an agreement is less than 12 months, there must be a contractual term—

- (a) specifying the date and periods for the purposes of a mid-year review of the services provided; and
- (b) which, other than as to the date and periods, have similar effect as those specified in paragraphs 58(3) to (8) and 59 of Schedule 3 in respect of the requirement and procedure for carrying out mid-year reviews.

Textual Amendments

- F71** Words in reg. 20(1) substituted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013 \(S.I. 2013/364\)](#), regs. 1(1), [34](#) (with [Sch. 2](#))

F72 Words in reg. 20(1) substituted (1.4.2016) by [The National Health Service \(Primary Dental Services Miscellaneous Amendments and Directions to the NHS Business Services Authority\) Regulations 2016 \(S.I. 2016/298\)](#), regs. 1(1), **21**

Variation of contractual terms in respect of election to enter into a Capitation and Quality Scheme Agreement **E+W**

F73 **20A.**

Textual Amendments

F73 Reg. 20A omitted (1.4.2013) by virtue of [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013 \(S.I. 2013/364\)](#), regs. 1(1), **35** (with Sch. 2)

Variation of contractual terms in respect of election to enter into a Capitation and Quality Scheme 2 Agreement **E+W**

F74 **20B.**

Textual Amendments

F74 Reg. 20B revoked (1.4.2016) by [The National Health Service \(Primary Dental Services Miscellaneous Amendments and Directions to the NHS Business Services Authority\) Regulations 2016 \(S.I. 2016/298\)](#), regs. 1(1), **22**

[**F75**] Variation of contractual terms in respect of election to enter into a prototype agreement **E+W**

20C.—(1) [**F76**Subject to paragraph (6), this regulation applies] where the contractor and the Board elect to enter into a prototype agreement.

(2) Where this regulation applies, the terms of the agreement which have the same effect as the provisions specified in paragraph (3) must be varied in accordance with paragraphs (4) and (5) with effect from the day on which the prototype agreement commences and for the period ending at the end of the day which is the date of termination of the prototype agreement, which must be no later than [**F77**31st March 2022].

(3) The provisions specified in this paragraph are—

- (a) regulation 13 (units of dental activity);
- (b) regulation 15 (under provision of units of dental activity or units of orthodontic activity), in relation to units of dental activity only;
- (c) regulation 17 (finance);
- (d) Part 1 of Schedule 2 (units of dental activity); and
- (e) in Schedule 3 (other contractual terms)—
 - (i) paragraph 33(2) (patient records), which is a contractor’s discretion to keep patient records in electronic form,
 - (ii) paragraph 58 (mid-year reviews), and

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(iii) paragraph 61(1)(a) and (3)(a) (variation of an agreement: activity under the agreement), which relate to units of dental activity.

(4) The agreement must include terms that have the effect of temporarily releasing the contractor and the Board from all of the obligations, conditions, payments, rights and liabilities relating to those terms (and only those terms) which have the same effect as the provisions specified in paragraph (3), including any right to enforce those terms.

(5) The agreement must also include terms that have the effect of providing that, immediately after the date of the termination of the prototype agreement, the terms of the agreement that subsisted between the parties immediately before—

- (a) in the case of a contractor who held both a Capitation and Quality Scheme Agreement and a Capitation and Quality Scheme 2 Agreement, the Capitation and Quality Scheme Agreement commenced;
- (b) in the case of a contractor who held a Capitation and Quality Scheme 2 Agreement but not a Capitation and Quality Scheme Agreement, the Capitation and Quality Scheme 2 Agreement commenced; or
- (c) if neither sub-paragraph (a) nor (b) applies, the prototype agreement commenced,

and from which the parties were temporarily released in accordance with paragraph (4), must apply from the day after the date of termination, and all obligations, conditions, payments, rights and liabilities relating to those terms are to be enforceable from that day.

[
^{F78}(6) Sub-paragraphs (b) and (d) of paragraph (3) do not apply where the contractor is a CDS prototype contractor.]]

Textual Amendments

- F75** Reg. 20C inserted (1.11.2015) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments\) \(No. 2\) Regulations 2015 \(S.I. 2015/1728\)](#), regs. 1(1), **15**
- F76** Words in reg. 20C(1) substituted (1.4.2016) by [The National Health Service \(Primary Dental Services Miscellaneous Amendments and Directions to the NHS Business Services Authority\) Regulations 2016 \(S.I. 2016/298\)](#), regs. 1(1), **23(a)**
- F77** Words in reg. 20C(2) substituted (9.12.2019) by [The National Health Service \(General Dental Services Contracts and Personal Dental Services Agreements\) \(Amendment\) Regulations 2019 \(S.I. 2019/1445\)](#), regs. 1(2), **3**
- F78** Reg. 20C(6) inserted (1.4.2016) by [The National Health Service \(Primary Dental Services Miscellaneous Amendments and Directions to the NHS Business Services Authority\) Regulations 2016 \(S.I. 2016/298\)](#), regs. 1(1), **23(b)**

[^{F79}**Suspension of agreement terms or of enforcement of agreement terms while a disease is or in anticipation of a disease being imminently pandemic etc.** **E+W**]

20D.—(1) Any term that is part of an agreement (including a prototype agreement) as a consequence of action taken under this Part or by agreement between the parties is temporarily not part of that agreement, in the particular circumstances mentioned in sub-paragraph (c)(ii) and during the period mentioned in sub-paragraph (c)(iii), in the following circumstances—

- (a) as a consequence of a disease being, or in anticipation of a disease being imminently—
 - (i) pandemic, and
 - (ii) a serious risk or potentially a serious risk to human health,

- the Board with the agreement of the Secretary of State has made an announcement in respect of the prioritisation of services to be provided in, or in any part of, England as part of the health service;
- (b) the prioritisation is in order to assist in the management of the serious risk or potentially serious risk to human health;
 - (c) as part of the announcement, the Board with the agreement of the Secretary of State has issued advice to the effect that contractors are not to comply with a specified type of term of personal dental services agreements (including prototype agreements)—
 - (i) in the area to which the announcement relates,
 - (ii) in the particular circumstances specified in the announcement, and
 - (iii) during the period specified in the announcement; and
 - (d) the contractor is situated in the area to which the announcement relates and compliance with the term (it being of the specified type) would, but for the effect of this paragraph, be a requirement of the contractor's agreement.
- (2) The Board must not take enforcement action, as provided for in an agreement (including a prototype agreement), in respect of a breach of a term of the agreement in the following circumstances—
- (a) as a consequence of a disease being, or in anticipation of a disease being imminently—
 - (i) pandemic, and
 - (ii) a serious risk or potentially a serious risk to human health,the Board with the agreement of the Secretary of State has made an announcement in respect of the prioritisation of services to be provided in, or in any part of, England as part of the health service;
 - (b) the prioritisation is in order to assist in the management of the serious risk or potentially serious risk to human health;
 - (c) as part of the announcement, the Board with the agreement of the Secretary of State has issued advice to the effect that contractors need not comply with a specified type of term of personal dental services agreements (including prototype agreements)—
 - (i) in the area to which the announcement relates,
 - (ii) in the particular circumstances specified in the announcement, and
 - (iii) during the period specified in the announcement; and
 - (d) the contractor—
 - (i) is situated in the area to which the announcement relates, and
 - (ii) has not complied with the term (it being of the specified type) in the particular circumstances mentioned in sub-paragraph (c)(ii) and during the period mentioned in sub-paragraph (c)(iii).]

Textual Amendments

F79 Reg. 20D inserted (27.3.2020) by [The National Health Service \(Amendments Relating to the Provision of Primary Care Services During a Pandemic etc.\) Regulations 2020 \(S.I. 2020/351\)](#), regs. 1(2), **3(3)**

PART 6 E+W**RIGHT TO A GENERAL DENTAL SERVICES CONTRACT****Right to a general dental services contract E+W**

21.—(1) A contractor which is providing mandatory services and which wishes a general dental services contract to be entered into pursuant to this regulation shall notify [^{F80}the Board] in writing at least three months before the date on which it wishes the general dental services contract to be entered into.

(2) A notice under paragraph (1) shall—

- (a) state that the contractor wishes to terminate the agreement and the date on which the contractor wishes the agreement to terminate which must be at least three months after the date of service of the notice;
- (b) subject to paragraph (3), give the name or names of the person or persons whom the contractor wishes [^{F81}the Board] to enter into a general dental services contract with; and
- (c) confirm that the person or persons so named meet the conditions set out in section 28M of the Act (persons eligible to enter into GDS contracts) ^{M38} and regulations 4 and 5 (where applicable) of the GDS Contracts Regulations or, where the contractor is not able so to confirm, the reason why it is not able to do so and confirmation that the person or persons immediately prior to entering into the general dental services contract will meet those conditions.

(3) A person's name may only be given in a notice referred to in paragraph (1) if that person is a party to the agreement.

(4) [^{F82}The Board] shall acknowledge receipt of the notice served under paragraph (1) within the period of seven days beginning on the day that it received the notice.

(5) Provided that the conditions set out in section 28M of the Act and regulations 4 and 5 (where applicable) of the GDS Contracts Regulations are met, [^{F83}the Board] shall enter into a general dental services contract with the person or persons named in the notice served under paragraph (1).

(6) In addition to the terms required by the Act and the GDS Contracts Regulations, a general dental services contract entered into pursuant to this regulation shall provide for—

- (a) the general dental services contract to commence immediately after the termination of the agreement;
- (b) the same services to be provided under the general dental services contract as were provided under the agreement immediately before it was terminated unless the parties otherwise agree;
- (c) the contractor to complete any course of treatment or orthodontic course of treatment that were not complete immediately before the agreement was terminated—
 - (i) in accordance with the terms of the general dental services contract in so far as those terms correspond with the terms of the agreement immediately before it was terminated, and
 - (ii) subject to such terms of the general dental services contract that permits the termination of a course of treatment or orthodontic course of treatment; and
- (d) unless the parties otherwise agree—
 - (i) subject to paragraph (ii), the same number of units of dental activity or units of orthodontic activity (as the case may be) specified in the agreement in a term giving effect to regulation 13 or 14 to be provided under the general dental services contract;

- (ii) where the general dental services contract is to begin on a day other than 1st April, the contractor to provide under that contract during the remainder of that financial year any units of dental activity or units of orthodontic activity that the contractor would have been obliged to provide in that financial year under the agreement but had not yet provided immediately before the general dental services contract begins;
 - (e) unless the parties otherwise agree—
 - (i) subject to paragraph (ii), the same number of courses of treatment involving the provision of sedation services or domiciliary services specified in the agreement in a term giving effect to regulation 16 to be provided under the general dental services contract;
 - (ii) where the general dental services contract is to begin on a day other than 1st April, the contractor under that contract to provide or contribute to during the remainder of that financial year any courses of treatment involving the provision of sedation services or domiciliary services that the contractor would have been obliged to provide or contribute to in that financial year under the agreement but had not yet provided or contributed to immediately before the general dental services contract begins;
 - (f) in respect of a course of treatment or orthodontic course of treatment falling within subparagraph (c), the contractor to ensure that a patient who is not an exempt person only pays one NHS Charge in respect of that course of treatment or orthodontic course of treatment; and
 - (g) the contractor to comply with the term of the general dental services contract giving effect to paragraph 12 of Schedule 3 to the GDS Contracts Regulations (repair or replacement of restorations) in respect of any patients to whom it provided treatment under its agreement, in addition to patients to whom it provides treatment under the general dental services contract.
- (7) An agreement shall terminate on the date stated in the notice given by the contractor under paragraph (1) unless a different date is agreed by the contractor and [F84the Board] or no general dental services contract is entered into by [F84the Board] pursuant to this regulation.
- (8) Where there is a dispute as to whether or not a person satisfies the conditions set out in section 28M of the Act or regulation 4 or 5 of the GDS Contracts Regulations, the contractor may appeal to the [F85First-tier Tribunal] and [F86the Board] shall be the respondent.
- (9) Any other dispute relating to this regulation shall be determined by the Secretary of State in accordance with regulation 8(3) and (4) of the GDS Contracts Regulations (pre-contract disputes).
- (10) The parties to a dispute referred to the Secretary of State in accordance with paragraph (9) shall be the contractor and [F87the Board].

Textual Amendments

- F80** Words in reg. 21(1) substituted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013 \(S.I. 2013/364\)](#), regs. 1(1), 37 (with Sch. 2)
- F81** Words in reg. 21(2)(b) substituted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013 \(S.I. 2013/364\)](#), regs. 1(1), 37 (with Sch. 2)
- F82** Words in reg. 21(4) substituted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013 \(S.I. 2013/364\)](#), regs. 1(1), 37 (with Sch. 2)

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- F83** Words in reg. 21(5) substituted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013 \(S.I. 2013/364\)](#), regs. 1(1), **37** (with Sch. 2)
- F84** Words in reg. 21(7) substituted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013 \(S.I. 2013/364\)](#), regs. 1(1), **37** (with Sch. 2)
- F85** Words in reg. 21(8) substituted (18.1.2010) by [The Transfer of Tribunal Functions Order 2010 \(S.I. 2010/22\)](#), art. 1(1), **Sch. 3 para. 104**
- F86** Words in reg. 21(8) substituted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013 \(S.I. 2013/364\)](#), regs. 1(1), **37** (with Sch. 2)
- F87** Words in reg. 21(10) substituted (1.4.2013) by [The National Health Service \(Primary Dental Services\) \(Miscellaneous Amendments and Transitional Provisions\) Regulations 2013 \(S.I. 2013/364\)](#), regs. 1(1), **37** (with Sch. 2)

Marginal Citations

- M38** Section 28M was inserted into the Act by section 172(1) of the 2003 Act.

PART 7 **E+W**

TRANSITIONAL PROVISION

Commencement of agreement **E+W**

22. The agreement shall provide for services to be provided under it from any date after 31st March 2006.

Signed by authority of the Secretary of State for Health

Rosie Winterton
Minister of State, Department of Health

Status:

Point in time view as at 14/09/2020.

Changes to legislation:

There are currently no known outstanding effects for the The National Health Service (Personal Dental Services Agreements) Regulations 2005.