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STATUTORY INSTRUMENTS

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**2005 No. 3373**

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

**PART 6**

RIGHT TO A GENERAL DENTAL SERVICES CONTRACT

**Right to a general dental services contract**

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 [<sup>F1</sup>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 [<sup>F2</sup>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) <sup>M1</sup> 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) [<sup>F3</sup>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, [<sup>F4</sup>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;

*Status: Point in time view as at 27/03/2020. This version of this provision has been superseded.*

*Changes to legislation: There are currently no known outstanding effects for the The National Health Service (Personal Dental Services Agreements) Regulations 2005, Section 21. (See end of Document for details)*

- (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 [F5the Board] or no general dental services contract is entered into by [F5the 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 [F6First-tier Tribunal] and [F7the 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 [F8the Board].

### Textual Amendments

- F1** 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](#))
- F2** 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](#))
- F3** 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](#))
- F4** 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](#))
- F5** 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](#))
- F6** 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](#)
- F7** 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](#))
- F8** 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

- M1** Section 28M was inserted into the Act by section 172(1) of the 2003 Act.

**Status:**

Point in time view as at 27/03/2020. This version of this provision has been superseded.

**Changes to legislation:**

There are currently no known outstanding effects for the The National Health Service (Personal Dental Services Agreements) Regulations 2005, Section 21.