
STATUTORY INSTRUMENTS

2006 No. 596

The Functions of Primary Care Trusts and Strategic Health Authorities and the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Primary Dental Services) (England) Regulations 2006

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Functions of Primary Care Trusts and Strategic Health Authorities and the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Primary Dental Services) (England) Regulations 2006 and shall come into force on 1st April 2006.

(2) In these Regulations—

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

“the Authority” means the NHS Business Services Authority established by the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution) Order 2005(1);

“GDS Contract” means a contract under section 28K of the 1977 Act (general dental services contracts)(2);

“GDS Contracts Regulations” means the National Health Service (General Dental Services Contracts) Regulations 2005(3);

“PDS Agreement” means an agreement for primary dental services under section 28C of the 1977 Act (personal medical or dental services)(4); and

“PDS Agreements Regulations” means the National Health Service (Personal Dental Services Agreements) Regulations 2005(5).

(3) In relation to a PDS Agreement, unless the context otherwise requires, any reference to a Relevant Body or contractor shall have the same meaning as in regulation 2 of the National Health Service (Personal Dental Services Agreements) Regulations 2005(6).

Functions of Primary Care Trusts and Strategic Health Authorities exercisable by the Authority

2.—(1) The functions of a Primary Care Trust or a Strategic Health Authority (as a Relevant Body) relating to primary dental services in England under the provisions specified in column 1 of

(1) [S.I. 2005/2414](#).

(2) Section 28K was inserted into the 1977 Act by section 172(1) of the 2003 Act.

(3) [S.I. 2005/3361](#).

(4) Section 28C was inserted into the 1977 Act by section 21(1) of the National Health Service (Primary Care) Act 1997 (c. 46) and has been amended by the 2002 Act, Schedule 3, Part 1, and the 2003 Act, Schedule 11, paragraphs 7 and 14 and Schedule 14, Part 4.

(5) [S.I. 2005/3373](#).

(6) [S.I. 2005/3373](#).

the Schedule in respect of the matters indicated in column 2 of that Schedule are to be exercised by the Authority.

(2) The Authority shall exercise the functions set out in column 3 of the Schedule which are ancillary, related or supplemental to the functions set out in column 2 of that Schedule.

(3) In the case of the function of a Primary Care Trust of making payments under Directions under—

- (a) section 28N of the 1977 Act, as regards GDS Contracts, referred to in entry 1(a) of column 2 of the Schedule; and
- (b) section 28E(3A) and (3B), as regards PDS Agreements, referred to in entry 2(a) of column 2 of the Schedule,

the Primary Care Trust may only itself exercise the function where the Authority is unable to do so for reasons other than a failure by the Primary Care Trust to co-operate in a reasonable manner with it.

(4) In so far as these Regulations provide for the Authority to exercise a function under paragraph (1) and column 2 of the Schedule—

- (a) any act or omission of the Authority in the exercise of the function shall be treated solely as an act or omission of the Primary Care Trust or the Relevant Body; and
- (b) any obligation, right or liability arising from the terms of the GDS Contract or PDS Agreement which give effect to the functions specified in column 1 of the Schedule remain solely with the Primary Care Trust or Relevant Body and shall not transfer to the Authority notwithstanding that the function is exercisable or was exercised by the Authority.

(5) The contractor may not refuse to carry out any obligation or requirement or claim for breach of contract under the terms of the GDS Contract or PDS Agreement on the ground that the Primary Care Trust or Relevant Body has failed to comply with an obligation or requirement under the terms of that Contract or Agreement if the Authority has exercised the function which gave rise to that obligation or requirement.

(6) Except as provided in paragraph (7), where the Authority is given the function under these Regulations of receiving or being given access to records, forms, documents or information, or of requesting any such record, form, document or information, the contractor shall—

- (a) send or give access to such records, forms, documents or information to the Authority; and
- (b) upon sending or giving access to such records, forms, documents or information to the Authority, be treated as having complied with the terms of the GDS Contract or PDS Agreement which give rise to the obligation or requirement to do so.

(7) Where a Primary Care Trust or Relevant Body requests under the GDS Contract or PDS Agreement the contractor to send or give access to records, forms, documents or information under paragraph 35, 37 or 44 of Schedule 3 to the GDS Contracts Regulations, or paragraph 36, 38 or 44 of Schedule 3 to the PDS Agreements Regulations, the contractor shall send or give access to such records, forms, documents or information to the Primary Care Trust or Relevant Body notwithstanding the fact that it may have provided that record, form, document or information to the Authority or may be under an obligation to do so.

Signed by authority of the Secretary of State for Health

3rd March 2006

Rosie Winterton
Minister of State,
Department of Health