

**EXPLANATORY MEMORANDUM TO**  
**THE NATIONAL HEALTH SERVICE (PRIMARY DENTAL SERVICES)**  
**(AMENDMENTS RELATED TO UNITS OF DENTAL ACTIVITY) REGULATIONS**  
**2012**

**2012 No. 2273**

1. This explanatory memorandum has been prepared by the Department of Health and is laid before the House of Commons by Command of Her Majesty.
2. **Purpose of the instrument**
  - 2.1 This Instrument amends—
    - (a) the National Health Service (General Dental Services Contracts) Regulations 2005 (S.I. 2005/3361) (“the GDS Regulations”); and
    - (b) the National Health Service (Personal Dental Services Agreements) Regulations 2005 (S.I. 2005/3373) (“the PDS Regulations”),by removing from the type of charge exempt course of treatment for which units of dental activity are provided the issue of a prescription.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 None
4. **Legislative Context**
  - 4.1 The National Health Service (Dental Charges) Regulations 2005 (“the Charges Regulations”) (2005/3477), provides for dental charges to be made and recovered except in respect of specified persons and specified courses of treatment that are exempt. Such courses of treatment are referred to in the Charges Regulations and the GDS and PDS Regulations as “charge exempt courses of treatment”. The issuing of a prescription, where this is not part of another course of treatment, is set out as a charge exempt course of treatment in these Regulations.
  - 4.2 Schedules 2 to the GDS and PDS Regulations respectively currently provide that the issuing of a prescription as a charge exempt course of treatment attracts 0.75 of a unit of dental activity. The Instrument amends both of these Schedules to ensure that the issue of a prescription no longer attracts any units of dental activity and therefore needs to be removed from these Schedules. The effect of this amendment will be that contractors will no longer be paid for issuing a prescription in such circumstances.

## 5. Territorial Extent and Application

5.1 This Instrument applies to England.

## 6. European Convention on Human Rights

As the Instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

## 7. Policy background

- *What is being done and why*

7.1 Under general dental services contracts (“GDS contracts”) and personal dental services agreements (“PDS agreements”) contractors are required to provide courses of treatment and may be required to provide additional services. Such services are measured in units of dental activity which is the term used in the GDS and PDS Regulations to quantify and measure the provision of services. In accordance with Secretary of State directions to Primary Care Trusts (“PCTS”), contractors are paid an annual contract or agreement value based, in part, on an agreed number of units of dental activity provided during the financial year.

7.2 The changes made by this Instrument implements part of the 2012/2013 dental expenses settlement by making a small adjustment to the way dental activity is measured: removing a 0.75 unit of dental activity (UDA) credit for courses of treatment which only contain a prescription and no other activity. This reflects changes in clinical practice and removes potentially perverse incentives to issue prescriptions to patients which are not part of a full course of treatment. The rest of the settlement (a uplift of 0.5% in dental contract values) does not require regulatory change and has already been implemented by amendments to directions to PCTs relating to payments to contractors providing services under GDS contracts and PDS agreements in April 2012.

- *Consolidation*

7.3 The GDS and PDS Regulations are used to stipulate the mandatory elements of primary dental services contracts and agreements entered into by GDS and PDS contractors and PCTs. The primary reference documents used by contractors and PCTs are the standard GDS and PDS template contract and agreement. It is the Department’s intention to issue electronically a consolidated standard template and standard variation notices for use by PCTs on the Department’s website [www.dh.gov.uk](http://www.dh.gov.uk).

7.4 Resources are currently concentrated on the implementation of the Health and Social Care Act 2012, and the development of dental services. The Department will keep the consolidation of the GDS and PDS Regulations under review.

## **8. Consultation outcome**

8.1 The Department has consulted the Dental Profession (which is represented by the British Dental Association) and they are content with the change set out in this Instrument.

## **9. Guidance**

9.1 It is not considered necessary to issue guidance in relation to the change to the GDS and PDS Regulations. Contractors and PCTs will be advised of the changes as part of the regular communications from the NHS Business Services Authority (“the NHS BSA”).

## **10. Impact**

10.1 The impact on business, charities or voluntary bodies is negligible.

10.2 The impact on the public sector is negligible. GDS and PDS contractors will need to be aware of the changes – this will be communicated by the NHS BSA. The NHS BSA will need to amend their systems to reflect the change in activity reporting.

10.3 An Impact Assessment has not been prepared for this Instrument as no impact on the private or voluntary sector is foreseen.

## **11. Regulating small business**

11.1 Dentists providing dental services under GDS contracts and PDS agreements are outside the scope of the micro business exemption as such services are regarded as the delivery of public services and are governed by a statutory framework under which NHS dental services are delivered.

## **12. Monitoring & review**

12.1 The implementation of the GDS and PDS Regulations is currently the responsibility of PCTs. The Department has regular discussions with PCTs and other interested parties including contractors’ representatives (the BDA) to ensure provisions are implemented and to consider any problems identified in their operation.

## **13. Contact**

**David Roberts** at the Department of Health, Telephone: 020 797 25316 or email: David.P.Roberts@dh.gsi.gov.uk, can answer any queries regarding the Instrument.