

SCHEDULE

Regulation 14

TRANSITIONAL PROVISIONS

Interpretation

1. In this Schedule—

“the 2001 Rules” means the Family Health Services Appeal Authority (Procedure) Rules 2001(1);

“continuing matter” means any case where the Initial Local Health Board had not yet come to a decision on any matter, other than a matter falling within paragraph 8, under the Dental Regulations;

“Initial Local Health Board” means a Local Health Board in whose dental list the dentist’s name was or had been included prior to the relevant date;

“the relevant date” means 1 April 2006,

and other terms used will bear the same meaning in this Schedule that they have in Part 4 of the principal Regulations.

Allocation of dentists on previous lists

2. In the case of a dentist, whose name, immediately before the relevant date, was included in a Local Health Board’s dental list, but was not included in the dental list of any other Local Health Board, his or her name will, on that day, be included in that Local Health Board’s dental performers list.

3. In the case of a dentist whose name was, immediately before the relevant date, included in the dental list of more than one Local Health Board, his or her name will, on that date, be included in the dental performers list of one of those Boards in accordance with paragraphs 4 to 9.

4. In which Local Health Board’s list that dentist’s name is to be included will be determined by reference to the payments that the Dental Practise Board made to the dentist under regulation 20 (approval of payments) of the Dental Regulations in the quarter ending 31 December 2005 in relation to the general dental services that that dentist had provided in the area of each such Local Health Board in accordance with paragraph 5.

5. The dentist will be included in the dental performers list of the Board in respect of whose area the largest total of payments was made, unless the payments in respect of two or more such areas in that quarter were the same, in which case the matter will be determined by reference to the previous quarter.

6. This paragraph applies to a dentist who—

(a) falls within paragraph 3; but

(b) would, by reason of paragraphs 4 and 5, be included in the dental performers list of a Local Health Board in whose area he or she will not be party to a scheme to provide primary dental services on or after the relevant date.

7. A dentist to whom paragraph 6 applies—

(a) if he or she is party to such a scheme in the area of another Board in whose dental list his or her name was included immediately before the relevant date, it will be included in the dental performers list of that Board; and

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- (b) if he or she was on that day included in the dental list of more than one such Board, the question of which dental performers list his or her name is to be included in will be determined in accordance with paragraphs 4 and 5.

Applications not decided by the relevant date

8. Subject to paragraph 9, in any case where there was any application, including an application which the Local Health Board has deferred, by a dentist to a Board for his or her name to be included in its dental list and that application has not been decided before the relevant date, it will be deemed to be an application to have his or her name included in the dental performers list of that Local Health Board.

9. In a case where—

- (a) a dentist has made an application to which paragraph 8 applies;
- (b) his or her name was already included in a dental list of any Local Health Board; and
- (c) he or she had not given notice of an intention to withdraw from that list with that application,

that application will be void and the Local Health Board will so notify him or her, informing him or her of the reason for that.

Matters relating to the dentist

10. In a case falling within paragraph 2, any matter, question or proceeding relating to any dentist under the Dental Regulations that had not been finally decided before the relevant date, will be treated as though it had arisen in relation to the dental performers list in which that dentist has been included or, but for that matter, would have been included and will continue to be dealt with by the Local Health Board.

11. In a case where a dental list on which the dentist’s name was included immediately before the relevant date, contained, in relation to him or her, any condition or contingent removal, or if he or she was then suspended from that list, that condition, contingent removal or suspension, as the case may be, will equally apply to the dental performers list in which his or her name is included on and after the relevant date as it did, in relation to any other list, before that date.

12. Subject to paragraph 13, in any case where there is any continuing matter and that matter had not been finally decided before the relevant date, it will be treated as though it had arisen in relation to the dental performers list in which that dentist has been included or, but for that matter, would have been included.

13. In any case where there is a continuing matter and the dental performers list in which that dentist’s name is included is not that of the Initial Local Health Board that matter will proceed as though his or her name were included in the Initial Local Health Board’s dental performers list.

Dentists performing personal dental services, general dental services or community dental service

14.—(1) Any dentist, whose name was not included in a dental list immediately before the relevant date and was performing personal dental services, general dental services or community dental service before the relevant date, may perform primary dental services, notwithstanding regulation 29(1) of the principal Regulations (dental performers list), until—

- (a) 1 October 2006; or
- (b) the date on which the Local Health Board notifies him or her of its decision on his or her application to be included in its dental performers list,

whichever is the earlier, provided that that dentist applies, in accordance with the principal Regulations, to a Local Health Board to be included in its dental performers list not later than 1 May 2006.

(2) A dentist making an application to a Local Health Board to perform personal dental services, general dental services or community dental service immediately before the relevant date, will only be required to provide the information required under regulations 4(2), (4) and (5) (application for inclusion in a performers list) and 30(1) (application for inclusion in a dental performers list) of the principal Regulations in so far as—

- (a) he or she has not already supplied it to that Board; or
- (b) it has changed since it was provided.

(3) Any dentist to whom sub-paragraph (1) applies will comply with regulation 9 of the principal Regulations (requirements with which a performer in a performers list must comply), if any of the events therein specified occur, as though he or she were included in the dental performers list of the Local Health Board in whose area he or she is performing primary dental services.

(4) A dentist may not perform primary dental services by virtue of sub-paragraph (1) during any period in which he or she is the subject of a suspension notice given by a Local Health Board under sub-paragraph (5).

(5) A Local Health Board may give a suspension notice to a dentist to whom sub-paragraph (1) applies where it is satisfied that it is necessary to do so for the protection of members of the public or is otherwise in the public interest.

(6) A Local Health Board may withdraw a suspension notice it has given under sub-paragraph (5) at any time.

(7) During a period of suspension payments may be made to or in respect of the dentist by the Local Health Board in accordance with a determination by the National Assembly for Wales.

(8) Where a Local Health Board—

- (a) has received an application from a dentist to whom sub-paragraph (1) applies; and
- (b) becomes aware in respect of that dentist of any of the matters listed in regulations 10(1) (removal from a performers list) or 32(1) (grounds for removal from a dental performers list) of the principal Regulations,

it will immediately decide the dentist's application to be included in its dental performers list.

Enhanced criminal record certificates

15.—(1) Where a dentist's name has been included in a dental performers list of a Local Health Board pursuant to this Schedule, and—

- (a) it has not received an enhanced criminal record certificate under section 115 of the Police Act 1997(2) relating to him or her; and
- (b) the National Assembly for Wales directs that the Local Health Board will require such a certificate from any dentist whose name is included in its dental performers list,

the dentist will, within 3 months of the Board notifying him or her of that requirement, provide that certificate to it.

(2) When sub-paragraph (1)(b) applies, the Local Health Board will write to each such dentist informing him or her that he or she is now under a duty to—

- (a) provide it with such a certificate; and
- (b) do so within the period of 3 months beginning with the date of that letter,

(2) 1997 c. 50.

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and, subject to sub-paragraph (3), if the dentist has not provided it with such a certificate within that time, it will remove him or her from its dental performers list.

(3) The Local Health Board—

(a) will extend the period prescribed in sub-paragraph (1), if the National Assembly for Wales directs that an extension should be required in relation to all such cases or in such categories of case as it may set out in the directions; and

(b) may, if it thinks it is not reasonably practicable for that dentist to provide it with such a certificate within the period of 3 months, beginning with the date of the letter under sub-paragraph (2), as extended by reason of any direction to which paragraph (a) applies, extend that period for such time as it considers appropriate in the circumstances of the case,

and will notify that dentist of that extension of time.

Appeals to the FHSAA under Part II of the 2001 Rules

16.—(1) Where—

(a) the FHSAA receives a notice of appeal within the time limit specified in rule 5 of the 2001 Rules (time period in which an FHS regulations appeal must be heard) on or after the relevant date; and

(b) that notice of appeal concerns a disputed decision taken by a respondent Initial Local Health Board before the relevant date,

that Board will continue to be the respondent, even if the dentist's name is from the relevant date, included in the dental performer's list of a different Local Health Board.

17. Where—

(a) the FHSAA has received a notice of appeal in accordance with rule 6 of the 2001 Rules (notice of appeal) before the relevant date;

(b) that appeal concerns a disputed decision taken by a respondent Initial Local Health Board before the relevant date; and

(c) it has not been finally determined before the relevant date,

that Board will continue to be the respondent, even if the dentist's name is, from the relevant date, included in the dental performer's list of a different Local Health Board.

Applications to the FHSAA under Part III of the 2001 Rules

18. Where the FHSAA—

(a) has received an application pursuant to Part III of the 2001 Rules (applications to the FHSAA) before the relevant date; and

(b) that application has not been finally determined immediately before the relevant date,

the parties to that application will, from the relevant date, continue to be the dentist who was a party immediately before the relevant date and the Initial Local Health Board.

General matters relating to cases under Part IV of the 2001 Rules

19. Where a panel has—

(a) pursuant to rule 32(1) (directions in respect of hearings), 33 (further directions), 44(2) (miscellaneous powers of panel) or 45(2) (irregularities) of the 2001 Rules given any directions; or

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- (b) pursuant to rule 37 (varying or setting aside directions) of those Rules, varied any directions,

in relation to any appeal falling within paragraph 16, those directions or varied directions will continue to apply to the Initial Local Health Board, even if the dentist's name is, on and after the relevant date, included in the dental performers list of a different Local Health Board.

20. Where a panel has, pursuant to rule 42 (decision of panel) or 43 (review of panel's decision) of the 2001 Rules, given a decision—

- (a) that decision will continue to apply to the Initial Local Health Board; and
- (b) that Board, will be entitled to apply to the FHSAA pursuant to and in accordance with rule 43 of the 2001 Rules for a review of a panel's decision.

21. Where the FHSAA has taken a decision before the relevant date which, by virtue of rule 46 of the 2001 Rules (publication of certain decisions by the FHSAA), it would, at the time it took that decision have been obliged to publish, that obligation will continue on or after the relevant date if it has not published the decision immediately.