
WELSH STATUTORY INSTRUMENTS

2006 No. 946

**The General Dental Services and Personal Dental Services
Transitional and Consequential Provisions (Wales) Order 2006**

PART 4

**TRANSITIONAL ARRANGEMENTS: THE NATIONAL HEALTH SERVICE
(SERVICE COMMITTEES AND TRIBUNAL) REGULATIONS 1992**

Determination of a Local Health Board made on or after the relevant date (regulation 8)

35. –

(1) Where, on or after the relevant date, an appropriate LHB is determining what (if any) action to take pursuant to regulation 8 in accordance with provision made in this Part, it will make such a determination in accordance with such limitation and modifications to that regulation as are specified in this article.

(2) The appropriate LHB may—

- (a) pursuant to regulation 8(1)(c)(i), determine that no further action should be taken;
- (b) pursuant to regulation 8(5)(a), determine that an amount will be recovered from the dentist;
- (c) pursuant to regulation 8(5)(b), determine that it would have determined that the dentist should be required to submit estimates for the prior approval of the Board in respect of such treatment and during such period as the appropriate LHB specifies; or
- (d) pursuant to regulation 8(5)(c), determine that it would have warned the dentist to comply more closely with his or her terms of service in future, if those terms of service were still applicable,

and if it makes any one or more of the decisions specified in sub-paragraphs (b) to (d), it will, after the period specified in regulation 8(11)(a) or (b) (as applicable) has expired, notify in writing the contracting LHB and the Performers List LHB (if any) of its decision and the reasons for it, if either one is a different Local Health Board to the appropriate LHB.

(3) Where, pursuant to paragraph (2)(b), the appropriate LHB determines that an amount should be recovered from the dentist, regulation 8(9) will not apply and that amount will be recoverable by the appropriate LHB and it will be treated as a debt owed by that dentist to the appropriate LHB.

(4) Where the appropriate LHB has notified the contracting LHB that it has made any of the determinations specified in paragraph (2)(b) to (2)(d), or where the appropriate LHB is the contracting LHB, paragraph (5) will apply without prejudice to any other rights the contracting LHB may have to take action against the relevant contractor pursuant to any term of the general dental services contract or personal dental services agreement.

(5) Where this paragraph applies, the contracting LHB—

- (a) may, in relation to a relevant contractor, take into account the determination of the appropriate LHB if it is considering, pursuant to a term of the general dental services contract that gives effect to paragraph 73(7) of Schedule 3 to the GDS Contracts

Regulations or the personal dental services agreement that gives effect to paragraph 71(7) of Schedule 3 to the PDS Agreements Regulations, whether the cumulative effect of breaches under that contract or agreement is such that to allow the contract or agreement to continue would be prejudicial to the efficiency of the services provided under that contract or agreement; but

(b) will not, pursuant to sub-paragraph (a), take into account any determination of an appropriate LHB that was made more than 6 years prior to the date upon which the contracting LHB is considering terminating the general dental services contract or personal dental services agreement.

(6) Where—

(a) a Performers List LHB has received notification from an appropriate LHB pursuant to paragraph (2); or

(b) where an appropriate LHB that has taken a decision pursuant to paragraph (2) is also the Performers List LHB,

it will consider what (if any) action it should take in respect of that dentist pursuant to its powers under the Performers Lists Regulations.