1995 No. 488

HEALTH AND PERSONAL SOCIAL SERVICES

General Dental Services (Amendment) Regulations (Northern Ireland) 1995

Made . . . . . *21st December 1995*

Coming into operation . . *21st December 1995*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 61(1), (2) and (2AA), 106 and 107(6) of, and paragraph 8E of Part I of Schedule 11 to, the Health and Personal Social Services (Northern Ireland) Order 1972(**a**) and of all other powers enabling it in that behalf, and in conjunction with the Department of Finance and Personnel and after consultation with such organisations as appeared to the Department to be representative of the dental profession as required by Article 61(4) of the said Order, hereby makes the following regulations:

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the General Dental Services (Amendment) Regulations (Northern Ireland) 1995 and shall come into operation on 21st December 1995.

(2) In these regulations, "the principal regulations" means the Health and Personal Social Services General Dental Services Regulations (Northern Ireland) 1993(**b**).

Amendment of regulation 2 of the principal regulations

2. In regulation 2 of the principal regulations (interpretation), in paragraph (1), after the definition of "supply" there shall be inserted—

" "suspended by direction of the Tribunal" means suspended as respects the provision of general dental services to patients by a direction of the Tribunal made pursuant to paragraph 8A(2) or 8B(1) of Part I of Schedule 11 to the Order(**c**) or to any provisions in force in England and Wales or Scotland corresponding to those provisions;".

Amendment of regulation 5 of the principal regulations

3. In regulation 5 of the principal regulations (application for inclusion in the dental list), in paragraph (1)(*a*)(i), for "5A and 11"(**d**) there shall be substituted "5A, 11 and 14".

(**a**) S.I. 1972/1265 (N.I. 14) as amended by Article 13 of S.I. 1978/1907 (N.I. 26); Articles 30, 34 and 35 and Part I of Schedule 5 to, and Part I of Schedule 6 to, S.I. 1991/194 (N.I. 1); paragraph 8E of Part I of Schedule 11 was inserted by Article 4 of S.I. 1995/2704 (N.I. 14)

(**b**) S.R. 1993 No. 326 as amended by S.R. 1993 No. 401

(**c**) Paragraph 8A or 8B of Part I of Schedule 11 were inserted by Article 4 of S.I. 1995/2704 (N.I. 14)

(**d**) The reference to "5A" was inserted by S.R. 1993 No. 401, regulation 3(1)(*b*)

Amendment of regulation 8 of the principal regulations

4. In regulation 8 of the principal regulations (removal from dental list), in paragraph (5)—

(*a*) at the end of sub-paragraph (*b*), "or" shall be omitted; and

(*b*) at the end of sub-paragraph (*c*) there shall be inserted—

"; or

(*d*) the dentist was suspended by direction of the Tribunal".

Amendment of regulation 13 of the principal regulations

5.—(1) Regulation 13 of the principal regulations (transfer of continuing care and capitation arrangements) shall be amended as follows:

(2) In paragraph (1)—

(*a*) for "paragraph (2)" there shall be substituted "paragraphs (2) and (3)"; and

(*b*) after "ceases to have his name included in the dental list" there shall be inserted "or is suspended by direction of the Tribunal".

(3) After paragraph (2) there shall be inserted—

"(3) Where a suspension by direction of the Tribunal ceases to have effect and the suspended dentist continues to be included in the dental list, the Board shall make arrangements for any continuing care arrangements or capitation arrangements transferred under paragraph (1) which are still in force (including any such arrangement which has been extended under paragraph 8 or 9 of Schedule 2) to be transferred back to the original dentist, subject to the agreement of the patients concerned".

Amendment of regulation 25 to the principal regulations

6. In regulation 25 of the principal regulations (entitlement to payments), in paragraph (4)—

(*a*) at the end of sub-paragraph (*f*), "or" shall be omitted; and

(*b*) at the end of sub-paragraph (*g*) there shall be inserted—

"; or

(*h*) during which he is suspended by direction of the Tribunal".

Payments to dentists suspended by direction of the Tribunal

7. After regulation 29, there shall be inserted the following new Part—

"PART VA

PAYMENTS IN CONSEQUENCE OF SUSPENSION BY THE TRIBUNAL

Payments to dentists suspended by direction of the Tribunal

29A.—(1) The Agency shall make payments to any dentist who is suspended by direction of the Tribunal in accordance with the Department's determination for the time being in force in relation to such payments.

(2) The Department shall make the determination in accordance with paragraphs (3) and (4) after consultation with the organisation referred to in regulation 19(1) and it shall be published with the Statement referred to in regulation 19(2).

(3) Subject to paragraph (4), the Department's determination shall be such as to secure that, as far as reasonably practicable, and after making adjustments for any reduction in expenses, the suspended dentist receives payments at a rate corresponding to his remuneration by virtue of regulation 19 during the 12 months ending with the direction for suspension by the Tribunal.

(4) The Department's determination may include provision that payments in accordance with the determination are not to exceed a specified amount in any specified period.

(5) In a case to which paragraph 8B(3) of Part I of Schedule 11 to the Order applies, the determination shall be reduced to take account of any payments which the suspended dentist receives for providing general dental services other than as a principal.

(6) Regulation 19(3) shall apply to determinations under this regulation as it applies to determinations under that regulation.

(7) Regulation 29 shall apply to payments made under this Part as it applies to payments made under Part V.".

Amendment of Schedule 2 to the principal regulations

8.—(1) Schedule 2 to the principal regulations (terms of service for dentists) shall be amended as follows.

(2) In paragraph 8 (duration of a continuing care arrangement)—

(*a*) at the end of sub-paragraph (2)(*b*)(i) "or" shall be omitted; and

(*b*) at the end of sub-paragraph (2)(*b*)(ii) there shall be inserted—

"; or

(iii) the dentist is suspended by direction of the Tribunal and the Board does not within the period of 1 month beginning with the date of the Tribunal's direction arrange for it to be transferred to another dentist under regulation 13.".

(3) In paragraph 9 (duration of a capitation arrangement)—

(*a*) at the end of sub-paragraph (2)(*b*)(ii) "or" shall be omitted; and

(*b*) at the end of sub-paragraph (2)(*b*)(iii) there shall be inserted—

"; or

(iv) the dentist is suspended by direction of the Tribunal and the Board does not within the period of 1 month beginning with the date of the Tribunal's direction arrange for it to be transferred to another dentist under regulation 13.".

(4) In paragraph 35 (deputies and assistants)—

(*a*) in sub-paragraph (10), "and Schedule 11 to" shall be omitted; and

(*b*) after sub-paragraph (10) there shall be inserted the following sub-paragraph—

"(10A) A dentist shall not employ as a deputy or assistant for the purpose of the provision of general dental services any dentist—

(*a*) who, having been disqualified under paragraph 3(*b*) of Part 1 of Schedule 11 to the Order (or under any corresponding provision in force in England and Wales or Scotland) from inclusion in the dental list (or in England and Wales, the dental list of a Family Health Services Authority or in Scotland the dental list of a Health Board) is also the subject of a declaration under paragraph 3(*c*) of Part I of Schedule 11 to the Order(**a**) (or any corresponding provision in force in England and Wales or Scotland) that he is not fit to be engaged in any capacity in the provision of general dental services; or

(*b*) who is suspended by direction of the Tribunal, other than in a case falling within paragraph 8B(3) of Part I of Schedule 11 to the Order.".

Amendment of Schedule 3 to the principal regulations

9. In Part I of Schedule 3 to the principal regulations (information and undertaking to be included in an application for inclusion in the dental list), after paragraph 13 there shall be inserted—

"**14.** Whether he has been suspended by the Tribunal.".

Sealed with the Official Seal of the Department of Health and Social Services on 21st December 1995.

(L.S.) *Joan Dixon*
Assistant Secretary

Sealed with the Official Seal of the Department of Finance and Personnel on 21st December 1995.

(L.S.) *J. G. Sullivan*
Assistant Secretary

(a) Paragraph 3 of Schedule 11 was substituted by Article 3 of S.I. 1995/2704 (N.I. 14)

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These Regulations further amend the Health and Personal Social Services General Dental Services Regulations (Northern Ireland) 1993 ("the principal regulations") to make provision relating to dentists who have been suspended from the provision of general dental services by the Tribunal or whom the Tribunal has declared not fit to be engaged in any capacity in the provision of those services.

These Regulations also enable Health and Social Services Boards to transfer to another dentist existing arrangements for the care and treatment of the patients of suspended dentists, and to transfer them back if the suspended dentist is reinstated. The Regulations also amend Schedule 2 of the 1993 Regulations to prevent the employment, as an assistant or deputy, of any dentist suspended by the Tribunal or subject to a declaration by the Tribunal that he is not fit to be engaged in any capacity in the provision of general dental services.

The Regulations also provide for payments to suspended dentists.

Paragraph 8E of Part I of Schedule 11 to the Health and Personal Social Services (Northern Ireland) Order 1972 ("the 1972 Order") one of the enabling provisions under which these regulations are made, is inserted by Article 4 of the Health and Personal Social Services (Amendment) (Northern Ireland) Order 1995 ("the 1995 Order"). Article 4 of the 1995 Order is brought in to operation on 20th December 1995, for the purpose of amending the 1972 Order in relation to general medical and general dental services only, by virtue of the Health and Personal Social Services (Amendment) (1995 Order) (Commencement No. 1 Order) (Northern Ireland) 1995 S.R. 1995 No. 486 (C. 12)).