SCOTTISH STATUTORY INSTRUMENTS

2004 No. 292

NATIONAL HEALTH SERVICE

The National Health Service (Vocational Training for General Dental Practice) (Scotland) Regulations 2004

Made - - - -	*14th June 2004*
Laid before the Scottish Parliament - - - -	*14th June 2004*
Coming into force - -	*5th July 2004*

The Scottish Ministers, in exercise of the powers conferred by sections 2(5), 25(2), 105(7) and 108(1) of the National Health Service (Scotland) Act 1978(**1**) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Vocational Training for General Dental Practice) (Scotland) Regulations 2004 and shall come into force on 5th July 2004.

(2) In these Regulations–

"the Act" means the National Health Service (Scotland) Act 1978;

"the 1996 Regulations" means the National Health Service (General Dental Services) (Scotland) Regulations 1996(**2**);

"Appeal Body" means the Dentists Vocational Training Appeal Body constituted in accordance with regulation 4;

"Appeal Committee" means the Appeal Committee appointed under regulation 5(6);

(**1**) 1978 c. 29; section 25(2) was extended by the Health and Medicines Act 1988 (c. 49), section 17 and amended by the National Health Service and Community Care Act 1990 (c. 19), sections 40(2) and Schedule 9, paragraph 19(6), by the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, paragraph 43 and Schedule 3 and by the Health Act 1999 (c. 8) ("the 1999 Act") section 56(3); section 105(7), which contains provisions relevant to the making of regulations, was amended by the Health Services Act 1980, Schedule 6, paragraph 5 and Schedule 7, paragraph 24, by the Health and Social Security Adjudications Act 1983 (c. 41), Schedule 9, paragraph 24 and the 1999 Act, Schedule 4, paragraph 60; section 108(1) contains definitions of "prescribed" and "regulations" relevant to the exercise of the statutory powers under which these Regulations are made. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(**2**) S.I.1996/177; amended by S.I. 1996/841 and 2060, 1998/1663, 2224 and 2259, 1999/724 and S.S.I. 1999/51, 2000/188, 352 and 394, 2001/57 and 368, 2002/99, 192 and 268, 2003/131 and 422 and 2004/37.

"approved trainer" means a dentist on Part A of a dental list and who is approved by the Board as being a dentist who has the requisite skills and suitable practice facilities to enable the dentist to act as a trainer;

"the Board" means NHS Education for Scotland established by the NHS Education for Scotland Order 2002(**3**);

"community dental service" means the dental service provided in Scotland under sections 1 and 39(2) of the Act, in England and Wales under sections 3(1)(c) and 5(1A) of the National Health Service Act 1977(**4**) and in Northern Ireland under articles 5(1)(c) and 9(1)(a) and (1A) of the Health and Personal Social Services (Northern Ireland) Order 1972(**5**);

"Community law" has the same meaning as in section 126(9) of the Scotland Act 1998(**6**);

"dental list" means the list prepared by a Health Board in accordance with regulation 4(1) of the 1996 Regulations;

"dentist" means a registered dental practitioner;

"EEA state" means a Member State, Norway, Iceland or Liechtenstein;

"pilot scheme" has the same meaning as in section 1(1) of the National Health Service (Primary Care) Act 1997(**7**);

"primary dental care" means care and treatment delivered by the dentist at the first point of contact with the patient;

"regular forces" has the same meaning as in section 225(1) of the Army Act 1955 (**8**);

"salaried dentist" means a dentist employed by a health board who undertakes to provide general dental services at a health centre, hospital or from any vehicle or moveable facility;

"satisfactory completion of vocational training", and related expressions, shall be construed in accordance with regulation 3;

"vocational training", except as provided for in regulation 8, means a period of employment–

(a) which is undertaken within a period of up to two years (or the equivalent period of part time employment) from the date of commencement of employment, or such extension of that period as may be approved by the Postgraduate Dental Dean(**9**); and

(b) during which period the dentist is employed under a contract of service by an approved trainer or, where the approved trainer is a salaried dentist, under a contract of service with a Health Board, to provide a wide range of dental care and treatment, to attend such study days as that contract requires and to undertake assessments required in order to satisfactorily complete vocational training;

"vocational training certificate", except as provided for in regulation 8, means a certificate confirming that a dentist has satisfactorily completed vocational training issued–

(a) in Scotland, by the Postgraduate Dental Dean, or a Director of Postgraduate General Dental Practice Education(**10**);

(b) in England, Wales or Northern Ireland, by a Postgraduate Dental Dean;

(c) by the Director of the Royal Naval Dental Service, the Director of the Royal Army Dental Corp or the Director of the Dental Branch of the Royal Air Force;

(**3**) S.S.I. 2002/103; amended by S.S.I. 2003/242.
(**4**) 1977 c. 49; section 5(1A) was inserted by the Health and Medicines Act 1988 c. 49, section 10(1)(b).
(**5**) S.I. 1972/1265 (N.I. 14).
(**6**) 1998 c. 46.
(**7**) 1997 c. 46.
(**8**) 1955 c. 18; relevant amendments to section 225(1) were made by the Reserve Forces Act 1996 c. 14, Schedule 11.
(**9**) The post of Postgraduate Dental Dean is held by an employee of the Board.
(**10**) The posts of Director of Postgraduate General Dental Practice Education are also held by employees of the Board.

"vocational training number", except where the context otherwise requires in paragraph 6 of regulation 2 and regulation 8, means the number allocated to a dentist–

(a) in Scotland, under regulation 2;

(b) in England and Wales, under regulation 5A (applications for vocational training numbers) of the National Health Service (General Dental Services) Regulations 1992(**11**); and

(c) in Northern Ireland, under regulation 5A (applications for vocational training numbers) of the Health and Personal Social Services General Dental Services Regulations (Northern Ireland) 1993(**12**);

"writing" does not include transmission by electronic means.

(3) Any reference in these Regulations to a numbered regulation or the Schedule or to a numbered paragraph or sub-paragraph of such a regulation is, unless otherwise expressly provided, a reference to a regulation, paragraph or sub-paragraph bearing that number in these Regulations or to the Schedule to these Regulations.

Applications for vocational training numbers

2.—(1) An application for a vocational training number shall be made in writing to the Board and–

(a) shall state that the dentist has also made an application under regulation 5(**13**) of the 1996 Regulations (application for inclusion in the dental list) for inclusion in Part A of the dental list and shall–

(i) specify the Health Board to which that application has been made; and

(ii) state the date on which it was made; and

(b) shall either–

(i) state that the dentist has completed vocational training satisfactorily and be accompanied by the dentist's vocational training certificate;

(ii) state that the experience or training which the dentist has acquired ought to be regarded as equivalent to vocational training and that that experience or training has been completed within the last 5 years and be accompanied by written details of that experience or training; or

(iii) state that the dentist is exempt from the requirement to have completed vocational training on one of the grounds set out in paragraph (3) and be accompanied by written details in support of that statement.

(2) For the purpose of paragraph (1)(b)(ii) experience or training shall not be prevented from being equivalent to vocational training merely because the structure of the experience does not comply exactly with the definition of vocational training.

(3) A dentist is exempt from the requirement to have completed vocational training if that dentist–

(a) is registered by virtue of section 15(1)(b)(**14**) or (2A)(**15**) of the Dentists Act 1984 (qualification for registration in the dentists register) or is in any other way a person in respect of whom an EEA State is prohibited by Community law from imposing such a requirement;

(**11**) S.I. 1992/661; regulation 5A was inserted by S.I. 1993/2209 and amended by S.I. 1993/3172, 1998/1648 and 2224, 2001/2421 and 2002/2469.
(**12**) S.R. 1993/ 326; regulation 5A was inserted by S.R. 1993/401 and amended by 1998/ 245.
(**13**) Regulation 5 was amended by S.S.I. 1999/51, regulation 2, 2000/188, regulation 4, 2001/368, regulation 2.
(**14**) Section 15(1)(b) was amended by S.I. 1996/1496, regulation 2(1).
(**15**) Section 15(2A) was inserted by S.I. 1996/1496, regulation 2(2).

(b) has had their name included in a dental list in the United Kingdom (other than in Part B only of a dental list in Scotland) within the period of five years ending on the date of the application by that dentist to be included in the dental list; or

(c) has practised in primary dental care in either the community dental service or the regular forces or has performed personal dental services in connection with a pilot scheme for a period amounting in aggregate to not less than four years full-time employment (or part-time employment of equivalent duration), and has so practised for not less than four months in full-time employment (or part-time employment of equivalent duration) within the period of four years ending with the date of application by that dentist under paragraph (1).

(4) An application for a vocational training number shall be granted by the Board if–

(a) a vocational training certificate has been issued to the applicant, following satisfactory completion of vocational training;

(b) the applicant has, in the opinion of the Board, acquired experience or completed training which ought to be regarded as equivalent to satisfactory completion of vocational training; or

(c) the applicant is exempt from the requirement to have completed vocational training on one of the grounds set out in paragraph (3).

(5) If the Board determines to grant an application for a vocational training number it shall–

(a) allocate to the applicant a vocational training number;

(b) notify the applicant of that number within 14 days of the determination; and

(c) enter that number against the name of the applicant in a register kept for that purpose.

(6) Once a vocational training number has been allocated either under these Regulations or the 1996 Regulations, it will cease to be valid if the dentist concerned does not for any continuous period of 5 years commencing on or after the date of commencement of these Regulations provide general dental services.

(7) If the Board does not allocate a vocational training number to the applicant, it shall within 10 days of that decision, send to the applicant a notice to that effect together with a statement setting out the reasons why it has not done so and telling the applicant about the right to appeal to the Appeal Body, the time limit for appeals specified in regulation 5(1) and giving the address to which an appeal must be sent.

Satisfactory completion of vocational training

3.—(1) Vocational training–

(a) shall, if the whole period of that training was undertaken after these Regulations come into force, be assessed by the Board by means of reports, examinations, interviews, written submissions and other forms of assessment designed to test the competencies specified in the Schedule; and

(b) shall be satisfactorily completed if the dentist has, in the opinion of the Board, acquired the dental experience which may reasonably be expected to be acquired from training of that duration in that employment.

(2) Subject to paragraph (1)(a) and the Schedule, the procedure for carrying out the assessment of, and the curriculum to be followed by, a dentist shall be determined by the Board after consultation with such organisations as, in the opinion of the Scottish Ministers, represent the general body of dentists and published by the Board from time to time(**16**).

(**16**) The procedure is available from the offices of NHS Education for Scotland, 22 Queen Street, Edinburgh.

Appeal Body for appeals against refusal of vocational training number.

4.—(1) The body to which appeals may be made in respect of a refusal to grant a vocational training number shall be a body of seven persons appointed by the Scottish Ministers and shall be known as the "Dentists Vocational Training Appeal Body".

(2) Of the seven persons referred to in paragraph (1)–

(a) one person shall be appointed as convener of the Appeal Body who–

(i) is an advocate or solicitor in Scotland of at least 10 years standing; or

(ii) has a 10 year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990(**17**)); or

(iii) is a member of the Bar of Northern Ireland or a solicitor of the Supreme Court of Northern Ireland of at least 10 years standing;

(b) three shall be dentists nominated by a body appearing to the Scottish Ministers to be representative of the dental profession; and

(c) three shall be dentists nominated by the Scottish Ministers.

(3) The Scottish Ministers shall appoint a person to act as secretary to the Appeal Body.

(4) In this regulation–

"advocate" means a member of the Faculty of Advocates;

"solicitor in Scotland" means any person enrolled as a solicitor in pursuance of the Solicitors (Scotland) Act 1980(**18**).

Procedure on appeal

5.—(1) A dentist, whose application for a vocational training number has been refused by the Board, may appeal against the refusal by giving to the Appeal Body, within 42 days after that dentist has received notice of the refusal pursuant to regulation 2(7) (or such extended period as the Appeal Body may allow pursuant to paragraph (2)), a written notice of appeal setting out a statement of the facts and contentions on which the dentist intends to rely.

(2) The convener may agree to an extension or further extension of the period of 42 days for lodging an appeal (either before or after that period has expired).

(3) In any case in which a dentist appeals to the Appeal Body in terms of paragraph (1), that dentist shall also send a copy of the written notice of appeal to the Board.

(4) The Board shall, within 21 days of the date of receipt of the copy notice of appeal referred to in paragraph (3), send to the Appeal Body a statement, signed and dated, saying whether or not the appeal is opposed.

(5) The convener may agree to an extension or further extension of the period of 21 days referred to in paragraph (4) for lodging the statement by the Board (either before or after that period has expired).

(6) On receipt of a notice of appeal, the Appeal Body shall appoint an Appeal Committee to determine the appeal and the Appeal Committee shall consist of the convener and two other persons, of whom–

(a) one shall be drawn from the dentists appointed to the Appeal Body under regulation 4(1) following their nomination under regulation 4(2)(b); and

(b) the other shall be drawn from the dentists appointed to the Appeal Body under regulation 4(1) following their nomination under regulation 4(2)(c).

(**17**) 1990 c. 41.
(**18**) 1980 c. 46.