STATUTORY INSTRUMENTS

2017 No. 1056

NATIONAL HEALTH SERVICE

The National Health Service (Primary Dental Services and General Ophthalmic Services) (Amendment) Regulations 2017

Made - - - - 1st November 2017

Laid before Parliament 3rd November 2017
Coming into force in accordance with regulation 1(2) and (3)

The Secretary of State for Health, in exercise of the powers conferred by sections 101(1), 104(1) and (2)(a), 109(1) and (3), 115(1) and (2)(c), 116(2) and (3), 121(1), 179(1), 180(1), (3) and (11) and 272(7) and (8)(a) of the National Health Service Act 2006(**1**), makes the following Regulations.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Primary Dental Services and General Ophthalmic Services) (Amendment) Regulations 2017.

(2) Subject to paragraph (3), they come into force on 1st December 2017.

(3) Regulations 2(3) and 4(3) come into force on 1st May 2019.

(4) In these Regulations—

"the GDS Regulations" means the National Health Service (General Dental Services Contracts) Regulations 2005(**2**);

"the PDS Regulations" means the National Health Service (Personal Dental Services Agreements) Regulations 2005(**3**);

(**1**) 2006 c. 41. The National Health Service Act 2006 ("the Act") was amended by the Health and Social Care Act 2012 (c.7) ("the 2012 Act"). Section 104 was amended by paragraph 46 of Schedule 4 to the 2012 Act. Section 109 was amended by paragraph 50 of Schedule 4 to the 2012 Act, and by section 17(5) of, and paragraph 52 of Schedule 9 to the Crime and Courts Act 2013 (c.22). Section 115 was amended by paragraph 54 of Schedule 4 to the 2012 Act. Section 121 was amended by paragraph 59 of Schedule 4 to the 2012 Act. Section 180(1) was amended by Schedule 6 to the Health Act 2009 (c.21) and section 205 of, and paragraph 96(1) and (2) of Schedule 4 to, the 2012 Act. *See* section 275(1) of the Act for the meaning given to "prescribed" and "regulations". The powers exercised in making these Regulations are exercisable by the Secretary of State in relation to England only, by virtue of section 271(1) of the Act.

(**2**) S.I. 2005/3361; amending instruments are S.I. 2006/563, 2007/544, 2008/528, 1514 and 1700, 2009/309 and 462, 2010/22 and 1881, 2011/1182, 2012/502, 2273 and 3404, 2013/364, 2014/443, 2015/137, 416 and 1728, and 2016/211, 298 and 481.

(**3**) S.I. 2005/3373; amending instruments are S.I. 2006/563, 2007/544, 2008/528 and 1514, 2009/309 and 462, 2010/22 and 1881, 2011/1182, 2012/502, 2273 and 2404, 2013/364, 2014/443 and 1887, 2014/887, 2015/137, 416 and 1728 and 2016/211, 298 and 481.

"the General Ophthalmic Services Regulations" means the General Ophthalmic Services Contracts Regulations 2008(**4**);

"the Primary Ophthalmic Services Regulations" means the Primary Ophthalmic Services Regulations 2008(**5**); and

"the Optical Charges and Payments Regulations" means the National Health Service (Optical Charges and Payments) Regulations 2013(**6**).

Amendment to the GDS Regulations

2.—(1) The GDS Regulations are amended as follows.

(2) In regulation 24C(2)(**7**) (variation of contractual terms in respect of election to enter into a prototype agreement), for "31st March 2018" substitute "31st March 2020".

(3) In paragraph 38 of Schedule 3 (notification of a course of treatment, orthodontic course of treatment etc)—

(a) after sub-paragraph (1)(f), for "send to the Board, on a form supplied by it" substitute "subject to sub-paragraph (4), send to the Board by means of electronic submission";

(b) for sub-paragraph (2)(d) substitute "in the case of a patient who is exempt from NHS Charges, the information required under sub-paragraph (3).";

(c) after sub-paragraph (2) insert the following—

"(3) In the case of a patient who is exempt from NHS Charges, the contractor must provide the Board (or a person authorised on the Board's behalf) with—

(a) such details of that exemption as the Board may reasonably request; and

(b) the written declaration.

(4) The Board may accept submission of the information mentioned in sub-paragraph (2) in paper form in such exceptional circumstances as the Board may reasonably determine.

(5) In this paragraph, 'electronic submission' means the submission of information electronically via a computer system approved by the Board.".

Transitional provision relating to the GDS Regulations

3.—(1) Notwithstanding the amendments made by regulation 2(3), where a course of treatment is completed on or before 30th April 2019, the Board may accept submission of the information required by paragraph 38(2) of Schedule 3 to the GDS Regulations in paper form up to and including 30th June 2019.

(2) In this regulation, 'course of treatment' has the same meaning as in regulation 2(1)(**8**) (interpretation) of the GDS Regulations.

Amendment to the PDS Regulations

4.—(1) The PDS Regulations are amended as follows.

(**4**) S.I. 2008/1185; amending instruments are S.I. 2008/1700, 2009/309, 2010/ 634, 22 and 634, 2013/365, 2014/418 and 1887, 2015/416 and 137 and 2016/211.
(**5**) S.I. 2008/1186; amending instruments are S.I. 2008/1700 and 2449, 2009/409, 2010/634, 2013/365, 2015/570 and 1776 and 2016/211 and 1045.
(**6**) S.I. 2013/461; amending instruments are S.I. 2013/1856, 2015/570 and 1776 and 2016/211, 325 and 1045.
(**7**) Regulation 24C was inserted by S.I. 2015/1728 and was amended by S.I. 2016/298.
(**8**) Relevant amending instruments are S.I. 2014/443 and 2015/1728.

(2) In regulation 20C(2)(**9**)(variation of contractual terms in respect of election to enter into a prototype agreement), for "31st March 2018" substitute "31st March 2020".

(3) In paragraph 39 of Schedule 3 (notification of a course of treatment, orthodontic course of treatment etc)—

(a) after sub-paragraph (1)(f), for "send to the Board, on a form supplied by it" substitute "subject to sub-paragraph (5), send to the Board by means of electronic submission";

(b) for sub-paragraph (3)(d) substitute "in the case of a patient who is exempt from NHS Charges, the information required under sub-paragraph (4).."; and

(c) after sub-paragraph (3) insert the following—

"(4) In the case of a patient who is exempt from NHS Charges, the contractor must provide the Board (or a person authorised on the Board's behalf) with—

(a) such details of that exemption as the Board may reasonably request; and

(b) the written declaration.

(5) The Board may accept submission of the information mentioned in sub-paragraph (2) in paper form in such exceptional circumstances as the Board may reasonably determine.

(6) In this regulation, 'electronic submission' means the submission of information electronically via a computer system approved by the Board.".

Transitional Provision relating to the PDS Regulations

5.—(1) Notwithstanding the amendments made by regulation 4(3), where a course of treatment is completed on or before 30th April 2019, the Board may accept submission of the information mentioned in paragraph 39(3) of Schedule 3 to the PDS Regulations in paper form up to and including 30th June 2019.

(2) In this regulation, 'course of treatment' has the same meaning as in regulation 2(**10**) (interpretation) of the PDS Regulations.

Amendment to the General Ophthalmic Services Regulations

6.—(1) The General Ophthalmic Services Regulations are amended as follows.

(2) In regulation 2(**11**) (interpretation), for the definition of "Charges Regulations" substitute ""Charges Regulations" means the National Health Service (Optical Charges and Payments) Regulations 2013(**12**);".

(3) In regulation 16(6)(**13**) (fees, charges and financial interests of the contractor), for "may be submitted electronically or on paper and" substitute "which may be submitted in either electronic form or on paper and".

(4) After regulation 16(9) insert—

"(10) In this regulation, "electronic form" means the submission of information electronically via a computer system approved by the Board.".

Amendment to the Primary Ophthalmic Services Regulations

7.—(1) The Primary Ophthalmic Services Regulations are amended as follows.

(**9**) Regulation 20C was inserted by S.I. 2015/1728 and was amended by S.I. 2016/298.
(**10**) Relevant amending instruments are S.I. 2014/443 and 2015/1728.
(**11**) Relevant amending instrument is S.I. 2013/365.
(**12**) S.I. 2013/461.
(**13**) Regulation 16 was amended by S.I. 2010/634, 2013/365 and 2014/418.