STATUTORY INSTRUMENTS

2016 No. 298

NATIONAL HEALTH SERVICE, ENGLAND

The National Health Service (Primary Dental Services –Miscellaneous Amendments and Directions to the NHS Business Services Authority) Regulations 2016

Made - - - -	*3rd March 2016*
Laid before Parliament	*10th March 2016*
Coming into force - -	*1st April 2016*

The Secretary of State for Health makes these Regulations in exercise of the powers conferred by sections 7(1), 104, 109, 272(7) and (8) and 273(4)(b)(zi) of the National Health Service Act 2006(**1**).

The Secretary of State has consulted the National Health Service Commissioning Board(**2**) in accordance with section 7(1B) of that Act(**3**).

PART 1

Introductory

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Primary Dental Services – Miscellaneous Amendments and Directions to the NHS Business Services Authority) Regulations 2016 and come into force on 1st April 2016.

(2) In these Regulations—

(**1**) 2006 c.41. Section 7(1) of the National Health Service Act 2006 ("the 2006 Act") was substituted by section 21(2) of the Health and Social Care Act 2012 (c.7) ("the 2012 Act"). Section 104 of the 2006 Act was amended by paragraph 46 of Schedule 4 to the 2012 Act. Section 109 of the 2006 Act was amended by paragraph 50 of Schedule 4 to the 2012 Act. Subsection (4)(b)(zi) of section 273 of the 2006 Act was inserted by section 21(6) of the 2012 Act. *See* section 275(1) of the 2006 Act for the definitions of "prescribed" and "regulations" which are relevant to the powers being exercised. By virtue of section 271(1) of the 2006 Act, the functions of the Secretary of State being exercised in the making of these Regulations are exercisable only in relation to England.

(**2**) The National Health Service Commissioning Board (known as "NHS England") was established by section 1H of the 2006 Act, which was inserted by section 9(1) of the 2012 Act.

(**3**) Subsection (1B) of section 7 of the 2006 Act was inserted by section 21(2) of the 2012 Act.

"the GDS Regulations" means the National Health Service (General Dental Services Contracts) Regulations 2005(**4**); and

"the PDS Regulations" means the National Health Service (Personal Dental Services Agreements) Regulations 2005(**5**).

PART 2

Amendment of the GDS Regulations

Amendment of regulation 2 of the GDS Regulations

2. In regulation 2(1) of the GDS Regulations (interpretation)(**6**), after the definition of "case assessment" insert—

""CDS prototype contractor" means a contractor who has elected to enter into a prototype agreement under which primary dental services are secured for, and provided to, persons who cannot easily access such services;".

Amendment of regulation 17 of the GDS Regulations

3. In regulation 17 of the GDS Regulations (units of dental activity)(**7**), in paragraphs (1) and (2), for "regulations 24B and 24C" substitute "regulation 24C".

Amendment of regulation 18A of the GDS Regulations

4. In regulation 18A of the GDS Regulations (units of dental activity for contractors who elect to enter into a prototype agreement)(**8**)—

(a) at the beginning of paragraph (1), for "Where a contractor" substitute "Subject to paragraph (3), where a contractor"; and

(b) after paragraph (2), insert—

"(3) This regulation does not apply where the contractor is a CDS prototype contractor.".

Amendment of regulation 18B of the GDS Regulations

5. In regulation 18B of the GDS Regulations (capitated patient figures for contractors who elect to enter into a prototype agreement)(**9**), after "has elected to enter into a prototype agreement", insert "except where the contractor is a CDS prototype contractor,".

Amendment of regulation 18C of the GDS Regulations

6. In regulation 18C of the GDS Regulations (capitated patients)(**10**)—

(**4**) S.I. 2005/3361; as amended by S.I. 2006/563, 2007/544, 2008/528, 1514 and 1700, 2009/309 and 462, 2010/22 and 1181, 2011/1182, 2012/502, 2273 and 2404, 2013/364, 2014/443 and 1887 and 2015/137, 416 and 1728.
(**5**) S.I. 2005/3373; as amended by S.I. 2006/563, 2007/544, 2008/528 and 1514, 2009/309 and 462, 2010/22 and 1181, 2011/1182, 2012/502, 2273 and 2404, 2013/364, 2014/443 and 1887 and 2015/137, 416 and 1728.
(**6**) Regulation 2(1) was amended by S.I. 2006/563, 2008/1700, 2010/22, 2011/1182, 2012/502, 2013/364, 2014/443 and 2015/1728.
(**7**) Regulation 17 was amended by S.I. 2013/364 and 2015/1728.
(**8**) Regulation 18A was inserted by S.I. 2015/1728.
(**9**) Regulation 18B was inserted by S.I. 2015/1728.
(**10**) Regulation 18C was inserted by S.I. 2015/1728.

(a) at the beginning of paragraph (1), for "Where a contractor" substitute "Subject to paragraph (3), where a contractor"; and

(b) after paragraph (2), insert—

"(3) This regulation does not apply where the contractor is a CDS prototype contractor.".

Amendment of regulation 21 of the GDS Regulations

7. In regulation 21 of the GDS Regulations (finance)(**11**), in paragraphs (1) and (3), for "regulations 24B and 24C" substitute "regulation 24C".

Insertion of new regulation 21A into the GDS Regulations

8. After regulation 21 of the GDS Regulations (finance), insert—

"**Publication of information about earnings**

21A.—(1) Using the information that it has obtained to make the payments to contractors mentioned in regulation 21(1)(a), the Board must publish the information specified in paragraph (2).

(2) The information specified in this paragraph is, in respect of each contract—

(a) the number of dental performers who during the previous financial year performed services under the contract;

(b) a figure representing the aggregate net pensionable earnings in respect of the previous financial year of those dental performers under the contract, taking into account the amount by which the employing authority of those performers would reduce those earnings to take account of expenses; and

(c) an average figure of net pensionable earnings of each performer based on the figures referred to in sub-paragraphs (a) and (b).

(3) In relation to the financial year ending on 31st March 2015, the information specified in paragraph (2) must be published by 31st May 2016, and for each subsequent financial year, it must be published before the end of the financial year following the financial year to which the information relates.

(4) The NHSBSA is directed to perform the Board's functions under this regulation, and must publish the information on its website(**12**) in such form and such manner as it sees fit.

(5) For the purposes of this regulation, net pensionable earnings are to be calculated in accordance with paragraph 3(2B) (meaning of pensionable earnings) of Schedule 2 (medical and dental practitioners) to the National Health Service Pension Scheme Regulations 1995(**13**), regulation 3.A.7(4) (meaning of pensionable earnings) of the National Health Service Pension Scheme Regulations 2008(**14**) and paragraph 3 (dental practitioner) of Schedule 10 (practitioner income) to the National Health Service Pension Scheme Regulations 2015(**15**).

(6) For the purposes of this regulation—

(**11**) Regulation 21 was amended by S.I. 2013/364 and 2015/1728.
(**12**) The NHS Business Services Authority's website address is www.nhsbsa.nhs.uk. The postal address for enquiries to the NHS Business Services Authority is NHS Business Services Authority, Stella House, Goldcrest Way, Newburn Riverside, Newcastle upon Tyne, NE15 8NY.
(**13**) S.I. 1995/300. Sub-paragraph 3(2B) of Schedule 2 was inserted by S.I. 2006/600, and was amended by S.I. 2008/2263 and 2013/413.
(**14**) S.I. 2008/653. Regulation 3.A.7(4) was amended by S.I. 2013/413.
(**15**) S.I. 2015/94.

"dental performer" means a dental practitioner whose name is included in the dental performers list;

"employing authority" has the meaning given in—

(a) regulation A2 (interpretation) of the National Health Service Pension Scheme Regulations 1995(**16**);

(b) regulation 2.A.1 (interpretation: general) of the National Health Service Pension Scheme Regulations 2008(**17**); and

(c) regulation 33(6) (contributions by employing authorities) of the National Health Service Pension Scheme Regulations 2015; and

"the NHSBSA" means the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG)(**18**);".

Amendment of regulation 24 of the GDS Regulations

9. In regulation 24 of the GDS Regulations (other contractual terms)(**19**), in paragraph (1), for "regulation 24B" substitute "regulation 24C".

Revocation of regulation 24B of the GDS Regulations

10. Regulation 24B of the GDS Regulations (variation of contractual terms in respect of election to enter into a Capitation and Quality Scheme 2 Agreement)(**20**) is revoked.

Amendment of regulation 24C of the GDS Regulations

11. In regulation 24C of the GDS Regulations (variation of contractual terms in respect of election to enter into a prototype agreement)(**21**)—

(a) at the beginning of paragraph (1), for "This regulation applies" substitute "Subject to paragraph (6), this regulation applies"; and

(b) after paragraph (5), insert—

"(6) Sub-paragraphs (b) and (d) of paragraph (3) do not apply where the contractor is a CDS prototype contractor.".

Amendment of Schedule 2A to the GDS Regulations

12. In Schedule 2A to the GDS Regulations (provision of services where a contractor has elected to enter into a prototype agreement)(**22**), after paragraph (6), insert—

"(7) This Schedule does not apply where the contractor is a CDS prototype contractor.".

(**16**) The definition of "employing authority" in regulation A2 was amended by S.I. 1997/1888, 1998/666, 2000/605, 2002/2469, 2003/631, 2004/696, 2005/661, 2007/3280, 2008/2263, 2009/2446, 2013/413 and 2014/570.
(**17**) The definition of "employing authority" in regulation 2.A.1 was amended by S.I. 2013/413 and 2014/570.
(**18**) The NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) was established by the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution Order) 2005 (S.I. 2005/2414), as amended by S.I. 2006/632, 2007/1201, 2013/235 and 2015/1862.
(**19**) Regulation 24 was amended by S.I. 2013/364.
(**20**) Regulation 24B was amended by S.I. 2013/364 and 2015/416.
(**21**) Regulation 24C was inserted by S.I. 2015/1728.
(**22**) Schedule 2A was inserted by S.I. 2015/1728.