WELSH STATUTORY INSTRUMENTS

2006 No. 946 (W.95)

NATIONAL HEALTH SERVICE, WALES

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

Made - - - -	*28 March 2006*
Coming into force - -	*1 April 2006*

The National Assembly for Wales makes the following Order in exercise of the powers conferred by sections 173, 195, 200 and 201 of the Health and Social Care (Community Health and Standards) Act 2003(**1**).

PART 1

GENERAL

Title, commencement and application

1. –

(1) The title of this Order is the General Dental Services and Personal Dental Services Transitional and Consequential Provisions (Wales) Order 2006 which comes into force on 1 April 2006.

(2) This Order applies in relation to Wales.

Interpretation

2. –

(1) In this Order—

"the 1977 Act" means the National Health Service Act 1977(**2**);

"the 1992 Regulations" means the National Health Service (General Dental Services) Regulations 1992(**3**);

"the Board" means the Dental Practice Board;

(**1**) 2003 c. 43.
(**2**) 1977 c. 49.
(**3**) S.I. 1992/661.

"capitation arrangement" means an arrangement made under paragraph 5 of Schedule 1 to the 1992 Regulations;

"care and treatment" means—

(a) all proper and necessary care which a dentist usually undertakes for a patient and which the patient is willing to undergo, including advice, planning of treatment and preventive care; and

(b) treatment;

"dental list" means the list of dental practitioners that had effect on 31 March 2006 who undertook to provide general dental services for persons in its area kept by a Local Health Board under regulations made under section 36(1)(a) of the 1977 Act;

"GDS Contracts Regulations" means the National Health Service (General Dental Services Contracts) (Wales) Regulations 2006(**4**);

"general dental services contract" means a contract under section 28K of the 1977 Act (general dental services contracts)(**5**);

"NHS Business Services Authority" means the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) established by the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution) Order 2005(**6**);

"NHS Charges Regulations" means the National Health Service (Dental Charges) (Wales) Regulations 2006(**7**);

"PDS Agreements Regulations" means the National Health Service (Personal Dental Services Agreements) (Wales) Regulations 2006(**8**);

"PDS Directions" means the Directions to Health Authorities concerning the implementation of pilot schemes (personal dental services)(**9**);

"personal dental services agreement" means an agreement for primary dental services under section 28C of the 1977 Act (personal medical or dental services)(**10**);

"pilot scheme agreement" means an agreement made under Part 1 of the National Health Service (Primary Care) Act 1997(**11**);

"pilot scheme provider" means the person or persons, other than a Local Health Board, who provide personal dental services under a pilot scheme agreement and who is a party or are parties to that agreement;

"the Transitional Order" means the General Dental Services and Personal Dental Services Transitional Provisions (Wales) Order 2006(**12**); and

"SDR" means the Statement of Dental Remuneration determined and published by the National Assembly for Wales under regulation 19 of the 1992 Regulations, as that statement had effect on 31 March 2006.

(2) In this Order, the use of the term "it" in relation to the contractor will be deemed to include a reference to a contractor that is an individual dental practitioner or two or more individuals practising in partnership and related expressions will be construed accordingly.

(**4**) S.I 2006/490 (W.59).
(**5**) Section 28K was inserted into the 1977 Act by section 172 of the Health and Social Care (Community Health and Standards) Act 2003 ("the 2003 Act").
(**6**) S.I. 2005/2414.
(**7**) S.I. 2006/491 (W.60).
(**8**) S.I. 2006/489 (W.58).
(**9**) The Directions were made in August 1998.
(**10**) Section 28C was inserted into the 1977 Act by section 21(1) of the National Health Service (Primary Care) Act 1997 (c. 46).
(**11**) 1997 c. 47.
(**12**) S.I. 2006/488 (W.57).

PART 2

TRANSITIONAL PROVISIONS IN RESPECT OF GENERAL DENTAL SERVICES PROVIDED BEFORE 1 APRIL 2006

Interpretation of Part 2

3. For the purposes of this Part—

"relevant dental practitioner" means a dental practitioner who enters into—

(a) a general dental services contract as a consequence of article 4 or 5 of the Transitional Order; or

(b) a personal dental services agreement as a consequence of article 15, 16 or 17 of the Transitional Order; and

"succeeding contractor" means the contractor which is a party to—

(a) the general dental services contract which—

(i) the relevant dental practitioner has entered into as an individual or as one of two or more individuals practising in partnership, or

(ii) has been entered into by a dental corporation of which the relevant dental practitioner is a director, chief executive or secretary; or

(b) the personal dental services agreement which the relevant dental practitioner has entered into as a consequence of article 15, 16 or 17 of the Transitional Order.

Applications for general dental services

4. Where, before 1 April 2006—

(a) a person has made an application to a relevant dental practitioner to receive general dental services(**13**) in accordance with regulation 2(1) of the National Health Service (Choice of Dental Practitioner) Regulations 1998(**14**); and

(b) that application has not been finally determined before that date,

that application will be treated as a request made to the succeeding contractor for services under the term of the contract giving effect to paragraph 1 of Schedule 3 to the GDS Contracts Regulations or under the term of the agreement giving effect to paragraph 1 of Schedule 3 to the PDS Agreements Regulations.

Investigation of outstanding complaints

5. –

(1) Subject to paragraph (2), where before 1 April 2006—

(a) a complaint had been made under paragraph 31A of Schedule 1 to the 1992 Regulations(**15**) by or on behalf of a patient or former patient of a relevant dental practitioner; and

(b) the investigation of that complaint under the practice based complaints procedure required to be established under paragraph 31A of that Schedule had not concluded,

(**13**) "General dental services" has the meaning given to it in section 35(1A) of the 1977 Act.
(**14**) S.I. 1998/2222.
(**15**) Paragraph 31A was inserted into the 1992 Regulations by S.I. 1996/704.

that complaint must, on or after 1 April 2006, be investigated, or in an appropriate case continue to be investigated, by the succeeding contractor as if paragraph 31A of Schedule 1 to the 1992 Regulations had not been revoked and continued to have effect as in force on 31 March 2006.

(2) In a case where there is no succeeding contractor the complaint must be investigated by one of the persons specified in paragraph (3) as if paragraph 31A of Schedule 1 to the 1992 Regulations had not been revoked and continued to have effect as in force on 31 March 2006.

(3) The persons referred to in paragraph (2) are—

(a) subject to paragraph (b), the person or persons who was or were the former partner or partners of the dental practitioner who provided care and treatment under a continuing care or capitation arrangement in respect of the complainant, if he, she or they meet the requirements in paragraph (4);

(b) in the case where the person or persons specified in paragraph (a) satisfy the Local Health Board on whose dental list their former partner was included for the purposes of providing general dental services to the complainant that, having regard to the nature of the complaint, it would not be appropriate for the complaint to be investigated by him, her or them, that Local Health Board; or

(c) in any other case, the Local Health Board on whose dental list the dental practitioner was included for the purposes of providing general dental services to the complainant.

(4) The requirements referred to in paragraph (3)(a) are that the former partner or partners—

(a) has or have entered into a general dental services contract, as an individual dental practitioner or as one of two or more individuals practising in partnership, with the Local Health Board on whose dental list their former partner was included for the purposes of providing general dental services to the complainant;

(b) is a director, chief executive or secretary of the dental corporation which has entered into a general dental services contract with the Local Health Board on whose dental list their former partner was included for the purposes of providing general dental services to the complainant;

(c) has or have entered into a personal dental services agreement with the Local Health Board on whose dental list their former partner was included for the purposes of providing general dental services to the complainant; or

(d) is a director, chief executive or secretary of the qualifying body which has entered into a personal dental services agreement with the Local Health Board on whose dental list their former partner was included for the purposes of providing general dental services to the complainant.

(5) Where, under paragraph (3), a complaint made by or on behalf of a patient or former patient would fall to be investigated, or continue to be investigated, by more than one contractor, the contractors concerned will—

(a) enter into discussions as to which of them would be the most appropriate person to deal with the complaint; and

(b) if they are unable to reach agreement, refer the matter to the Local Health Board on whose dental list their former partner was included for the purposes of providing general dental services to the complainant and that Local Health Board will investigate the complaint itself.

(6) Where, under this article, a complaint falls to be investigated by a Local Health Board the investigation will be carried out in accordance with the Directions to Local Health Boards on dealing with complaints about Family Health Service Practitioners(**16**).

(**16**) These directions were made in March 2003.

Complaints relating to general dental services made after 31 March 2006

6. –

(1) Subject to paragraph (2), the complaints procedure established and operated by a succeeding contractor under the term of its—

(a) general dental services contract which gives effect to paragraph 47 of Schedule 3 to the GDS Contracts Regulations; or

(b) personal dental services agreement which gives effect to paragraph 47 of Schedule 3 to the PDS Agreements Regulations,

will apply to any complaint which a patient or former patient of the relevant dental practitioner to whom it is a succeeding contractor could have made (but did not make) on or before 31 March 2006 under paragraph 31A of Schedule 1 to the 1992 Regulations as it applies to complaints made by a patient or former patient of the succeeding contractor in relation to any matter reasonably connected with the provision of services under the contract or, as the case may be, the agreement.

(2) In a case where there is no succeeding contractor, the complaint must be investigated by the Local Health Board in whose area the general dental services were provided.

(3) Where a complaint falls to be investigated by a Local Health Board as a consequence of paragraph (2), the investigation will be carried out in accordance with the Directions to Local Health Boards on dealing with complaints about Family Health Service Practitioners.

Patient information leaflet

7. –

(1) This article applies where a relevant dental practitioner had compiled a patient information leaflet which met the requirements of paragraph 32 of Schedule 1 and Schedule 5 to the 1992 Regulations on 31 March 2006 and that leaflet was, on that date, available to patients.

(2) Subject to paragraph (3), the patient information leaflet made available to patients on or after 1 April 2006 by the succeeding contractor need not, until 1 August 2006, include all the information specified in the terms of—

(a) the general dental services contract which give effect to Schedule 4 to the GDS Contracts Regulations; or

(b) the personal dental services agreement which give effect to Schedule 4 to the PDS Agreements Regulations.

(3) The succeeding contractor must from the date of the commencement of services under the general dental services contract or the personal dental services agreement make available to patients in written form the information specified in paragraph (4) together with the patient information leaflet referred to in paragraph (1).

(4) The information referred to in paragraph (3) is information regarding—

(a) the services available under the general dental services contract or the personal dental services agreement;

(b) the normal surgery days and hours of the practice;

(c) the arrangements for dental services for the days and hours that fall outside normal surgery days and hours (whether or not provided by the contractor) and how the patient may contact such services;

(d) if the services in sub-paragraph (c) are not provided by the contractor, the fact that the Local Health Board referred to in sub-paragraph (g) is responsible for commissioning the services;

(e) how patients may make a complaint or comment on the provision of services;