

NATIONAL ASSEMBLY FOR WALES

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STATUTORY INSTRUMENTS

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**2006 No. (W. )**

**NATIONAL HEALTH SERVICE, WALES**

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

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order makes transitory and transitional provisions relating to—

- (a) the new arrangements on 1 April 2006 for the provision of general dental services under section 28L of the National Health Service Act 1977 (“the 1977 Act”) in respect of general dental services contracts entered into under section 28K of that Act (as inserted by section 172(1) of the Health and Social Care (Community Health and Standards) Act 2003 (“the 2003 Act”); and
- (b) the abolition on 31 March 2006 of pilot schemes for personal dental services by section 178 of the 2003 Act and their replacement from 1 April 2006 with permanent arrangements for personal dental services under section 28C of the 1977 Act (personal medical or dental services).

Part 2 of the Order relates to general dental services contracts. Chapter 1 of Part 2 sets out the circumstances in which those currently providing general dental services and personal dental services will be entitled to enter into a general dental services contract (articles 3 to 6). Article 7 provides a right of appeal to the National Assembly for Wales where a Local Health Board refuses to enter into a general dental services contract because it is not satisfied that the criteria relating to suspended dental practitioners are met. Article 8 makes provision in relation to the duration of entitlement to a general dental services contract in the case of a suspended dental practitioner who has appealed under article 7 and of dental practitioners who are performing relevant service (certain service in the armed forces). Article 9 provides a right of appeal where a contract is not entered into because of a failure to act by a Local Health Board. Chapter 2 of Part 2 makes provision in relation to general dental services contracts entered into under Chapter 1.

Part 3 of the Order relates to personal dental services agreements. Chapter 1 of Part 3 sets out the circumstances in which those currently providing general dental services and personal dental services will be entitled to enter into a personal dental services agreement (articles 14 to 17). Article 18 provides a right of appeal to the National Assembly for Wales where a Local Health Board refuses to enter into a personal dental services agreement for the provision of orthodontic care and treatment because it is not satisfied that the criteria relating to suspended dental practitioners are met. Article 19 makes provision in relation to the duration of entitlement to a personal dental services contract in the case of a suspended dental practitioner who has appealed under article 18 and of dental practitioners who are performing relevant service. Article 20 provides a right of appeal where an agreement is not entered into because of a failure to act by a Local Health Board. Chapter 2 of Part 3 makes provision in relation to personal dental services agreements entered into under Chapter 1.

Part 4 includes transitory provisions relating to current arrangements for general dental services under section 35 of the 1977 Act and pilot schemes, in particular with regard to treatment plans.

**2006 No. (W. )**

**NATIONAL HEALTH SERVICE, WALES**

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

*Made* - - - - - *28 February 2006*

*Coming into force* - - - - - *3 March 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<sup>(1)</sup>.

**PART 1**  
**GENERAL**

**Title, commencement and application**

1.—(1) The title of this Order is the General Dental Services and Personal Dental Services Transitional Provisions (Wales) Order 2006 which comes into force on 3 March 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<sup>(2)</sup>;

“the 1990 Act” means the National Health Service Act 1990<sup>(3)</sup>;

“the 2003 Act” means the Health and Social Care (Community Health and Standards) Act 2003;

“the 1992 Regulations” means the National Health Service (General Dental Services) Regulations 1992<sup>(4)</sup>;

“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;

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(1) 2003 c.43.  
(2) 1977 c.49.  
(3) 1990 c.19.  
(4) S.I.1992/661.

“course of treatment” has the meaning given to it in the GDS Contracts Regulations;

“dental list” means the list of dental practitioners undertaking to provide general dental services for persons in its area that is or was kept by a Local Health Board under section 36(1)(a) of the 1977 Act (regulations as to section 35)(1);

“dental performers list” means a list of dental practitioners prepared in accordance with the Performers List Regulations;

“Dentists Act” means the Dentists Act 1984(2);

“Dentists Register” means the register kept by the General Dental Council under section 14 of the Dentists Act (the dentists register and the registrar);

“GDS Contracts Regulations” means the National Health Service (General Dental Services Contracts) (Wales) Regulations 2006(3);

“general dental services contract” means a contract under section 28K of the 1977 Act (general dental services contracts)(4);

“mandatory services” has the meaning given to it in the GDS Contracts Regulations;

“NHS Charges Regulations” means the National Health Service (Dental Charges) (Wales) Regulations 2006(5);

“orthodontic course of treatment” has the meaning given to it in the GDS Contracts Regulations;

“PDS Agreements Regulations” means the National Health Service (Personal Dental Services Agreements) (Wales) Regulations 2006(6);

“PDS Directions” means the Directions to Health Authorities concerning the implementation of pilot schemes (personal dental services)(7);

“Performers Lists Regulations” means the National Health Service (Performers Lists) (Wales) Regulations 2004(8);

“personal dental services agreement” means an agreement for primary dental services under section 28C of the 1977 Act (personal medical or dental services)(9);

“pilot dentist” means, in relation to a particular pilot scheme agreement, a dentist who performs dental services by giving care and treatment in connection with that pilot scheme;

“pilot scheme agreement” means an agreement made under Part 1 of the National Health Service (Primary Care) Act 1997(10);

“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;

“relevant service” means—

- (a) whole-time service in the armed forces of the Crown in a national emergency either as a volunteer or otherwise;
- (b) compulsory whole-time service in those forces, including service resulting from any reserve liability; or
- (c) any equivalent service by a person liable for compulsory whole-time service in those forces;

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(1) Section 36(1)(a) was substituted by the National Health Service Reform and Health Care Professions Act 2002 (“the 2002 Act”), Schedule 2, paragraph 10(1) and (2).

(2) 1984 c.24; as amended by S.Is 2001/3926 and 2005/2011.

(3) S.I. 2006/[ ] (W. ).

(4) Section 28K was inserted into the 1977 Act by section 172(1) of the 2003 Act.

(5) S.I. 2006/[ ] (W. ).

(6) S.I.2006/[ ] (W. ).

(7) The Directions were made in August 1998.

(8) S.I. 2004/1020 (W.117) as amended by S.I. 2005/258 (W.24).

(9) Section 28C was inserted into the 1977 Act by section 21(1) of the National Health Service (Primary Care) Act 1997 (c.46) (“the 1997 Act”).

(10) 1997 c.46.

“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 has or had effect on 31 March 2006;

“section 35 arrangements” means arrangements made under section 35 of the 1977 Act (arrangements for general dental services); and

“treatment” in respect of a period before 1 April 2006, will have the same meaning as in regulation 2 of the 1992 Regulations.

(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.

## PART 2 GENERAL DENTAL SERVICES

### CHAPTER 1

#### Entitlement to General Dental Services Contracts

##### **Entitlement to a general dental services contract**

**3.—**(1) For the purposes of section 173(2) of the 2003 Act, the circumstances in which a Local Health Board must enter into a general dental services contract with a person who, on 31 March 2006, is providing services under section 35 of the 1977 Act are prescribed in articles 4 and 5.

(2) Nothing in this Order will require a Local Health Board to enter into a general dental services contract with any person (whether as an individual or as a member of a partnership) on more than one occasion.

##### **Individual dental practitioner**

**4.—**(1) Subject to paragraphs (2) and (3), a Local Health Board must, if a person so wishes, enter into a general dental services contract with him or her as an individual dental practitioner if—

- (a) on 31 March 2006 or, if earlier, on the date on which the contract is to be signed, he or she is included in the dental list of that Local Health Board;
- (b) on the date on which the contract is to be signed, he or she is practising as an individual dental practitioner and—
  - (i) no other dental practitioner, or
  - (ii) no other person providing services under section 35 arrangements, practises in partnership with him or her; and
- (c) in the case of a contract that is to be signed after 31 March 2006, he or she is, at the date on which the contract is to be signed, included in a dental performers list.

(2) A person will not be entitled to enter into a general dental services contract if he or she is an individual dental practitioner who is included in the dental list and in accordance with regulation 4(2)(b)(i) of the 1992 Regulations, it is indicated in the dental list that the dental practitioner provides only orthodontic treatment.

(3) A person will be treated as practising for the purposes of paragraph (1)(b) if he or she would have been so practising on the date in question except for the fact that on that date he or she is—

- (a) suspended from the—
  - (i) Dentists Register under section 32 of the Dentists Act (interim suspension)(1) or by a direction or order of the Health Committee under that Act (health cases),

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(1) 1984 c.24; as amended by S.Is 2001/3926 and 2005/2011.

- (ii) dental list under section 49I (suspension for the protection of the public or in the public interest) or 49J (suspension pending appeal) of the 1977 Act<sup>(1)</sup>, or
- (iii) dental performers list under regulation 13 of the Performers Lists Regulations (suspension for the protection of public or in the public interest);
- (b) on maternity, paternity or adoption leave and is, on that date, in receipt of payments in respect of such leave by virtue of Determination VI of the SDR;
- (c) on long term sickness leave and is, on that date, in receipt of payments pursuant to Determination VII of the SDR; or
- (d) performing relevant service.

(4) Where a person is suspended under or as a consequence of any of the provisions referred to in paragraph (3)(a), a Local Health Board will only be required under paragraph (1) to enter into a general dental services contract with him or her during the period of that suspension if it is satisfied that—

- (a) having regard to the grounds for suspension he or she is able to provide (but not perform) services under the contract and the Local Health Board is not at risk of material financial loss;
- (b) the entering into the contract would not—
  - (i) put at risk the safety of the contractor’s patients, or
  - (ii) be prejudicial to the efficiency of the provision of primary dental services in the area of the Local Health Board; and
- (c) the practitioner has in place adequate arrangements for the provision of services under the contract during the period of his or her suspension.

(5) Where a Local Health Board refuses to enter into a general dental services contract as a consequence of paragraph (4), it will notify the prospective contractor in writing of its decision, reasons for that decision and of the individual’s right of appeal under article 7.

(6) Where the contracting parties are unable to agree on a particular term of the general dental services contract and the dispute is referred to the National Assembly for Wales for determination in accordance with section 4 of the 1990 Act (NHS contracts) or regulation 8(1) of the GDS Contracts Regulations (pre-contract disputes), the determination may if it is made after the contract has been entered into—

- (a) vary the terms of the contract; or
- (b) bring the contract to an end.

(7) Where a determination is made in accordance with paragraph (6), section 4(8)(a) and (b) of the 1990 Act will apply in respect of the determination where the terms of the general dental services contract is varied or brought to an end.

## Partnerships

5.—(1) Subject to paragraph (2), a Local Health Board must, if a person so wishes, enter into a general dental services contract with him or her as one of two or more individuals practising in partnership if—

- (a) on 31 March 2006 or, if earlier, on the date on which the contract is to be signed, he or she is included in the dental list of that Local Health Board and is practising;
- (b) on 31 March 2006 or, if earlier, on the date on which the contract is to be signed, he or she is in partnership with one or more persons who are—
  - (i) included in the dental list of the Local Health Board, or
  - (ii) providing general dental services under section 35 arrangements (and are not dental practitioners); and
- (c) he or she wishes to enter into a contract as an individual practising in partnership with the persons referred to in paragraph (b).

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<sup>(1)</sup> Sections 49I and 48J are inserted into the 1977 Act by the Health and Social Care Act 2001 (c.15) (“the 2001 Act”), section 25.

(2) A dental practitioner does not fall within paragraph (1)(a) if he or she is included in the dental list on the date in question, and in accordance with regulation 4(2)(b)(i) of the 1992 Regulations, it is indicated in the dental list that the dental practitioner only provides orthodontic treatment.

(3) A person will be treated as practising for the purposes of paragraph (1)(a) if he or she would have been so practising on the date in question except for the fact that on that date he or she is—

- (a) suspended from the—
  - (i) Dentists Register by order under section 32 of the Dentists Act or by a direction or order of the Health Committee under that Act,
  - (ii) dental list under section 49I or 49J of the 1977 Act, or
  - (iii) dental performers list under regulation 13 of the Performers Lists Regulations;
- (b) on maternity, paternity or adoption leave and is, on that date, in receipt of payments in respect of such leave pursuant to Determination VI of the SDR;
- (c) on long term sickness leave and is, on that date, in receipt of payments pursuant to Determination VII of the SDR; or
- (d) performing relevant service.

(4) Where the person referred to in paragraph (1)(a) is suspended under or as a consequence of any of the provisions referred to in paragraph (3)(a), a Local Health Board will only be required under paragraph (1) to enter into a general dental services contract with that person and the persons practising in partnership with him or her, if it is satisfied that—

- (a) having regard to the grounds for suspension the individual so suspended is able to provide (but not perform) services under the contract and the Local Health Board is not at risk of material financial loss;
- (b) the entering into the contract would not—
  - (i) put at risk the safety of the contractor's patients, or
  - (ii) be prejudicial to the efficiency of the provision of primary dental services in the area of the Local Health Board; and
- (c) the partnership has in place adequate arrangements for the provision of services under the contract during the period of the individual's suspension.

(5) Where a Local Health Board refuses to enter into a general dental services contract as a consequence of paragraph (4), it will notify the individual who is suspended in writing of its decision, reasons for that decision and of the individual's right of appeal under article 7.

(6) Where the contracting parties are unable to agree on a particular term of the general dental services contract, article 4(6) and (7) will apply.

### **Pilot scheme providers**

**6.—(1)** Subject to section 28M(1) of the 1977 Act (but not subject to regulation 4 and 5 of the GDS Contracts Regulations), a Local Health Board must, if a pilot scheme provider so wishes, enter into a general dental services contract instead of a personal dental services agreement where the pilot scheme provider—

- (a) is entitled to enter into a personal dental services agreement with the Local Health Board under article 14;
- (b) is on 31 March 2006, or if earlier, on the date on which the contract is to be signed, providing services that are equivalent to mandatory services under the pilot scheme agreement; and
- (c) wishes to enter into a general dental services contract instead of a personal dental services agreement.

(2) Where a pilot scheme provider enters into a general dental services contract under paragraph (1), it will have no entitlement to enter into a personal dental services agreement with the Local Health Board under article 14.

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(1) Section 28M is inserted into the 1977 Act by section 172 of the 2003 Act.

(3) Where the contracting parties are unable to agree on a particular term of the contract, article 4(6) and (7) will apply.

### **Appeal against refusal to enter into a contract as a consequence of a suspension**

7.—(1) A person who has been notified by a Local Health Board under article 4(5) or 5(5) of its refusal to enter into a general dental services contract may appeal to the National Assembly for Wales by giving notice in writing to the National Assembly for Wales within a period of six weeks beginning on the day that the Local Health Board notified him or her of the refusal.

(2) A notice of appeal under paragraph (1) will include—

- (a) the names and addresses of the parties to the dispute;
- (b) a copy of the notification received from the Local Health Board under article 4(5) or 5(5); and
- (c) a brief statement of the grounds for appeal.

(3) The National Assembly for Wales may determine the appeal itself or, if it considers it appropriate, appoint a person or persons to consider and determine it.

(4) Before reaching a decision as to who should determine the dispute, the National Assembly for Wales will, within the period of seven days beginning with the date on which the notice of appeal was sent to it, send a written request to the parties to make in writing, within a specified period, any representations which they may wish to make about the matter.

(5) The National Assembly for Wales will give, with the notice under paragraph (4), to the Local Health Board which is a party to the appeal, a copy of the notice of appeal.

(6) The National Assembly for Wales will—

- (a) give a copy of any representations received from a party to the other party; and
- (b) in each case request (in writing) a party to whom a copy of the representations is given to make, within a specified period, any written observations on those representations.

(7) Following receipt of any representations from the parties or, if earlier, at the end of the period for making such representations specified in the request sent under paragraph (4) or (6), the National Assembly for Wales will, if it decides to appoint a person or persons to consider and determine the dispute—

- (a) inform the parties in writing of the name of the person or persons whom it has appointed; and
- (b) pass to the person or persons so appointed any documents received from the parties pursuant to paragraph (2), (4) or (6).

(8) For the purpose of assisting it, him or her in its, his or her consideration of the matter, the adjudicator may—

- (a) invite representatives of the parties to appear before it, him or her to make oral representations either together or, with the agreement of the parties, separately, and may in advance provide the parties with a list of matters or questions to which it, he or she wishes them to give special consideration; or
- (b) consult other persons whose expertise it, he or she considers will assist it, him or her in its, his or her consideration of the matter.

(9) Where the adjudicator consults another person under paragraph (8)(b), it, he or she will notify the parties accordingly in writing and, where it, he or she considers that the interests of any party might be substantially affected by the results of the consultation, it, he or she will give to the parties such opportunity as it, he or she considers reasonable in the circumstances to make observations on those results.

(10) In considering the matter, the adjudicator will consider—

- (a) any written representations made in response to a request under paragraph (4), but only if they are made within the specified period;
- (b) any written observations made in response to a request under paragraph (6), but only if they are made within the specified period;
- (c) any oral representations made in response to an invitation under paragraph (8)(a);
- (d) the results of any consultation under paragraph (8)(b); and

(e) any observations made in accordance with an opportunity given under paragraph (9).

(11) In this article, “specified period” means such period as the National Assembly for Wales will specify in the request, being not less than two, nor more than four, weeks beginning with the date on which the notice referred to is given, but the National Assembly for Wales may, if it considers that there is good reason for doing so, extend any such period (even after it has expired) and, where it does so, a reference in this article to the specified period is to the period as so extended.

(12) The adjudicator may, when determining the appeal require the Local Health Board to enter into a general dental services contract with the prospective contractor on terms to be agreed between the parties or, where necessary, determined under the pre-contract dispute resolution procedure in section 4(4) of the 1990 Act (NHS contracts) or under regulation 8 of the GDS Contracts Regulations (pre-contract disputes) (whichever is applicable) but may not require the prospective contractor to proceed with the contract.

(13) The adjudicator will record it, his or her determination in writing and will give notice of the determination (including the record of the reasons) to the parties.

(14) The determination of the adjudicator will be binding upon the parties.

(15) Subject to the other provisions of this article, the adjudicator will have wide discretion in determining the procedure of the appeal to ensure the just, expeditious, economical and final determination of the dispute.

(16) In this article, “adjudicator” means the National Assembly for Wales or a person or persons appointed by it under this article.

#### **Duration of entitlement to a general dental services contract**

8.—(1) In a case where—

(a) the prospective contractor has appealed in accordance with article 7; and

(b) the determination requires the Local Health Board to enter into a general dental services contract,

the entitlement of the prospective contractor to enter into such a contract continues for the period of six weeks beginning with the date on which the parties were notified of the determination.

(2) Where a person who is entitled to enter into a general dental services contract under article 4(1) or 5(1) has been unable to do so before 1 April 2006 because he or she is performing relevant service, his or her entitlement will continue until the end of the period of six weeks beginning with the date on which he or she ceases to perform relevant service.

#### **Appeal against failure of a Local Health Board to enter into a general dental services contract**

9.—(1) This article applies where a person has—

(a) offered to enter into a general dental services contract under article 4, 5 or 6; and

(b) as a result of a failure to act by the Local Health Board—

(i) been unable to sign such a contract before 1 April 2006, or

(ii) in a case where article 8 applies, been unable to sign such a contract within the period of entitlement provided for in accordance with that article.

(2) Where this article applies, the prospective contractor must, if he or she wishes to enter into a general dental service contract, apply in writing to the National Assembly for Wales—

(a) before 15 April 2006; or

(b) in a case where article 8 applies, no later than the end of the period of 14 days beginning on the date his or her entitlement to enter into such a contract ceases.

(3) An application under paragraph (2) will specify—

(a) the names and addresses of the parties to the dispute;

(b) the grounds on which the applicant claims to be entitled to enter into a general dental services contract; and

(c) the grounds for alleging default by the Local Health Board.



(4) Article 7(3) to 7(16) will apply to an application made under paragraph (1), subject to the modification that the references in article 7(4) and (5) to a notice of appeal will be read as references to an application under paragraph (2) of this article.

## CHAPTER 2

### Contracts: Required Terms

#### **Number of units of dental activity**

**10.**—(1) The number of units of dental activity to be provided by the contractor under a general dental services contract entered into under Chapter 1 will be determined in accordance with—

- (a) paragraphs (2) to (8) in the case of entitlement to a general dental services contract under article 4 or 5; or
- (b) paragraphs (5) to (7) in the case of entitlement to a general dental services contract under article 6.

(2) The Local Health Board will, by—

- (a) analysing the data it holds in respect of the care and treatment provided under section 35 arrangements during the year 1 October 2004 to 30 September 2005 by the person or persons with whom the contract is to be entered into;
- (b) categorising that care and treatment in accordance with Schedules 1 to 4 of the NHS Charges Regulations, and the principles set out in regulation 4(2) to (5) of those Regulations; and
- (c) reference to the conversion criteria to units of dental activity specified in Part 1 of Schedule 2 to the GDS Contracts Regulations,

calculate how many units of dental activity is the equivalent to the care and treatment provided by that person or persons during the year 1 October 2004 to 30 September 2005.

(3) For the purposes of analysing the data in cases where a patient was accepted for care and treatment under a capitation arrangement, the Local Health Board will make an assumption that two clinical examinations have taken place during the year 1 October 2004 to 30 September 2005.

(4) The Local Health Board will reduce the number of units of dental activity calculated in accordance with paragraphs (2) and (3) by 10 per cent in order to determine how many units of dental activity the contractor will provide in each financial year.

(5) Where—

- (a) data does not exist for the period specified in paragraph (2)(a); or
- (b) data does exist, but it is appropriate to adjust the data,

the contractor and the Local Health Board will agree the number of units of dental activity to be provided.

(6) Where the contractor and the Local Health Board cannot agree the number of units of dental activity as provided for in paragraph (5), the general dental services contract will state this to be the case, and will specify a number of units of dental activity which is determined by the Local Health Board.

(7) In determining the number of units of dental activity to be specified under paragraph (6), the Local Health Board will have regard to any data it holds regarding the amount of care and treatment provided under section 35 arrangements or, as the case may be, the pilot scheme agreement, by the person or persons with whom the general dental services contract is to be entered into in the period since 1 October 2004.

(8) Nothing in paragraphs (2) to (4) will prevent the contracting parties agreeing that the contractor will provide a number of units of dental activity that is higher or lower than the number calculated in accordance with those paragraphs.

#### **Number of units of orthodontic activity**

**11.**—(1) The number of units of orthodontic activity to be provided by the contractor under a general dental services contract entered into under Chapter 1 will be determined in accordance with—

- (a) paragraphs (2) to (6) in the case of entitlement to a general dental services contract under article 4 or 5; or

- (b) paragraphs (3) to (5) in the case of entitlement to a general dental services contract under article 6.
- (2) The Local Health Board will, by—
- (a) analysing the data it holds in respect of the orthodontic care and treatment provided under section 35 arrangements during the year 1 October 2004 to 30 September 2005 by the person or persons with whom the general dental services contract is to be entered into; and
  - (b) reference to the conversion criteria to units of orthodontic activity specified in Part 2 of Schedule 2 to the GDS Contracts Regulations,

calculate how many units of orthodontic activity is the equivalent to the orthodontic care and treatment provided by that person or persons during the year 1 October 2004 to 30 September 2005.

- (3) Where—
- (a) data does not exist for the period specified in paragraph (2)(a); or
  - (b) data does exist, but it is appropriate to adjust the data,

the contractor and the Local Health Board will agree the number of units of orthodontic activity to be provided.

(4) Where the contractor and Local Health Board cannot agree the number of units of orthodontic activity as provided for in paragraph (3), the general dental services contract will state this to be the case, and will specify a number of units of orthodontic activity which is determined by the Local Health Board.

(5) In determining the number of units of orthodontic activity to be specified under paragraph (4), the Local Health Board will have regard to any data it holds regarding the amount of orthodontic care and treatment provided under section 35 arrangements or, as the case may be, the pilot scheme agreement, by the person or persons with whom the general dental services contract is to be entered into in the period since 1 October 2004.

(6) Nothing in paragraph (2) will prevent the contracting parties agreeing that the contractor will provide a number of units of orthodontic activity that is higher or lower than the number calculated in accordance with paragraph (2).

### **Premises, facilities and equipment**

**12.**—(1) Where a Local Health Board is not satisfied that the prospective contractor has practice premises to be used for the provision of services under the contract that are—

- (a) suitable premises for the delivery of those services; or
- (b) sufficient to meet the reasonable needs of the contractor’s patients,

paragraph 12 of Schedule 3 to the GDS Contracts Regulations will apply as substituted by paragraph (2).

- (2) For that paragraph 12 substitute the following—

#### **“Premises, facilities and equipment**

**12.**—(1) The Local Health Board and prospective contractor will ensure that the contract includes a plan that—

- (a) is drawn up and agreed by the Local Health Board and the prospective contractor; and
- (b) specifies—
  - (i) the steps to be taken by the contractor to bring the practice premises up to the appropriate standard,
  - (ii) any financial support that may be available from the Local Health Board, and
  - (iii) the timescale on which the steps referred to in sub-paragraph (i) will be taken.

(2) Subject to the plan referred to in sub-paragraph (1), the contractor will ensure that the practice premises used for the provision of services under the contract are—

- (a) suitable for the delivery of those services; and
- (b) sufficient to meet the reasonable needs of the contractor’s patients.

(3) The obligation in sub-paragraph (2) includes providing proper and sufficient waiting-room accommodation for patients.

(4) The contractor will provide, in relation to all of the services to be provided under the contract, such other facilities and equipment as are necessary to enable it to perform those services properly.

(5) In this paragraph, “practice premises” includes a mobile surgery.”.

### **Treatment commenced before 1 April 2006**

**13.**—(1) Where care and treatment is commenced under section 35 arrangements or, as the case may be, a pilot scheme agreement, before 1 April 2006 and is not completed on 31 March 2006, the contractor will use its best endeavours to complete that treatment under its general dental services contract in accordance with paragraph 5(3) of Schedule 1 or, as the case may be, paragraph 6(2) of Schedule 3 to the GDS Contracts Regulations.

(2) Subject to paragraph (3), where treatment specified in a treatment plan provided in accordance with—

(a) paragraph 4 of Schedule 1 to the 1992 Regulations (as amended by article 27); or

(b) the PDS Directions as modified by article 28,

is not completed by 1 April 2006 that plan will, after that date, be treated as though it were a treatment plan provided in accordance with paragraph 7 of Schedule 3 to the GDS Contracts Regulations and with regard to it, the requirements in sub-paragraph (1) of that paragraph were satisfied.

(3) Where treatment specified in a treatment plan in respect of orthodontic care and treatment provided in accordance with—

(a) paragraph 4 of Schedule 1 to the 1992 Regulations (as amended by article 27); or

(b) the PDS Directions (as modified by article 28),

is not completed by 1 April 2006 that plan will, after that date, be treated as though it were a treatment plan provided in accordance with paragraph 6 of Schedule 1 to the GDS Contracts Regulations and with regard to it, the requirements in sub-paragraph (1) of that paragraph were satisfied.

(4) Where care and treatment is commenced prior to 1 April 2006 and continues or is completed on or after that date, all of that care and treatment provided will be treated as though it were a course of treatment or, as the case may be, an orthodontic course of treatment provided in accordance with the GDS Contracts Regulations.

## **PART 3**

### **PERSONAL DENTAL SERVICES**

#### **CHAPTER 1**

##### **Entitlement to Personal Dental Services Agreements**

#### **Pilot scheme providers**

**14.**—(1) A Local Health Board must, if a pilot scheme provider so wishes, enter into a personal dental services agreement with a provider if, on 31 March 2006 or, if earlier, on the date the agreement is to be signed, the pilot scheme provider is providing services to that Local Health Board under a pilot scheme agreement.

(2) Where a pilot scheme provider enters into a personal dental services agreement under paragraph (1), it will have no entitlement to enter into a general dental services contract under article 6.

(3) Where the contracting parties are unable to agree on a particular term of the agreement and the dispute is referred to the National Assembly for Wales for determination in accordance with section 4 of the 1990 Act (NHS contracts) or regulation 8(1) of the PDS Agreements Regulations (pre-contract disputes), the determination may if it is made after the agreement has been entered into—

(a) vary the terms of the agreement; or

(b) bring the agreement to an end.

(4) Where a determination is made in accordance with paragraph (3), section 4(8)(a) and (b) of the 1990 Act will apply in respect of the determination where the agreement is varied or brought to an end.

### **Persons who would be entitled to enter into a general dental services contract**

**15.**—(1) A Local Health Board must, if a person so wishes, enter into a personal dental services agreement instead of a general dental services contract, where—

- (a) the person would be entitled to enter into a general dental services contract with it under article 4 or 5; and
- (b) that person wishes to enter into a personal dental services agreement instead of a general dental services contract.

(2) Where the person would be entitled to enter into a general dental services contract under article 5, the personal dental services agreement must be with that person and the persons referred to in article 5(1)(b).

(3) Where a person enters into a personal dental services agreement under paragraph (1), he or she will have no entitlement to enter into a general dental services contract under article 4 or 5.

(4) Where the contracting parties are unable to agree on a particular term of the agreement, article 14(3) and (4) will apply.

### **Individual dental practitioners who provide only orthodontic care and treatment**

**16.**—(1) Subject to paragraph (2), a Local Health Board must, if a person so wishes, enter into a personal dental services agreement with him or her as the only other party to an agreement if—

- (a) on 31 March 2006 or, if earlier, on the date on which the agreement is to be signed, he or she is included in the dental list of that Local Health Board and, in accordance with regulation 4(2)(b)(i) of the 1992 Regulations, it is indicated in the dental list that the dental practitioner provides only orthodontic care and treatment;
- (b) on the date on which the agreement is to be signed, he or she is practising as an individual dental practitioner and—
  - (i) no other dental practitioner, or
  - (ii) no other person providing services under section 35 arrangements, practises in partnership with him or her; and
- (c) in the case of an agreement that is to be signed after 31 March 2006, he or she is, at the date on which the agreement is to be signed, included in a dental performers list.

(2) A person will be treated as practising for the purposes of paragraph (1)(b) if he or she would have been so practising on the date in question except for the fact that on that date he or she is—

- (a) suspended from the—
  - (i) Dentists Register under section 32 of the Dentists Act (interim suspension) or by a direction or order of the Health Committee under that Act (health cases),
  - (ii) dental list under section 49I (suspension for protection of the public or in the public interest) or 49J (suspension pending appeal) of the 1977 Act, or
  - (iii) dental performers list under regulation 13 of the Performers List Regulations (suspension for the protection of public or in the public interest);
- (b) on maternity, paternity or adoption leave and is, on that date, in receipt of payments in respect of such leave by virtue of Determination VI of the SDR;
- (c) on long term sickness leave and is, on that date, in receipt of payments pursuant to Determination VII of the SDR; or
- (d) performing relevant service.

(3) Where a person is suspended under or as a consequence of any of the provisions referred to in paragraph (2)(a), a Local Health Board will only be required under paragraph (1) to enter into a personal dental services agreement with him or her during the period of that suspension if it is satisfied that—

- (a) having regard to the grounds for suspension he or she is able to provide (but not perform) services under the agreement and the Local Health Board is not at risk of material financial loss;
- (b) the entering into the agreement would not—
  - (i) put at risk the safety of the contractor's patients, or
  - (ii) be prejudicial to the efficiency of the provision of primary dental services in the area of the Local Health Board; and
- (c) the practitioner has in place adequate arrangements for the provision of services under the agreement during the period of his or her suspension.

(4) Where a Local Health Board refuses to enter into a personal dental services agreement as a consequence of paragraph (3), it will notify the prospective contractor in writing of its decision, reasons for that decision and of the individual's right of appeal under article 18.

(5) Where the contracting parties are unable to agree on a particular term of the personal dental services agreement, article 14(3) and (4) will apply.

### **Partnerships that provide only orthodontic care and treatment**

**17.—**(1) A Local Health Board must, if a person so wishes, enter into a personal dental services agreement with him or her (and the persons referred to in paragraph (b)) if—

- (a) on 31 March 2006 or, if earlier, on the date on which the agreement is to be signed, he or she is—
  - (i) included in the dental list of that Local Health Board and, in accordance with regulation 4(2)(b)(i) of the 1992 Regulations, it is indicated in that list that the dental practitioner provides only orthodontic care and treatment, and
  - (ii) practising;
- (b) on 31 March 2006 or, if earlier, on the date on which the agreement is to be signed, he or she is practising in partnership with one or more persons who are—
  - (i) included in the dental list of the Local Health Board and, in accordance with regulation 4(2)(b)(i) of the 1992 Regulations, it is indicated in the list that they provide only orthodontic care and treatment, or
  - (ii) providing general dental services under section 35 arrangements (and are not dental practitioners); and
- (c) he or she wishes the Local Health Board to enter into an agreement with him or her and the persons referred to in paragraph (b).

(2) A person will be treated as practising for the purposes of paragraph (1)(a) if he or she would have been so practising on the date in question except for the fact that on the date he or she is—

- (a) suspended from the—
  - (i) Dentists Register under section 32 of the Dentist Act or by a direction or order of the Health Committee under that Act,
  - (ii) dental list under section 49I or 49J of the 1977 Act, or
  - (iii) dental performers list under regulation 13 of the Performers Lists Regulations;
- (b) on maternity, paternity or adoption leave and is, on that date, in receipt of payments in respect of such leave by virtue of Determination VI of the SDR;
- (c) on long term sickness leave and is, on that date, in receipt of payments pursuant to Determination VII of the SDR; or
- (d) performing relevant service.

(3) Where the person referred to in paragraph (1)(a) is suspended under or as a consequence of any of the provisions referred to in paragraph (2)(a), a Local Health Board will only be required under paragraph (1) to

enter into a personal dental services agreement with that person and the persons referred to in paragraph (1)(b), if it is satisfied that—

- (a) having regard to the grounds for suspension the individual so suspended is able to provide (but not perform) services under the agreement and the Local Health Board is not at risk of material financial loss;
- (b) the entering into the agreement would not—
  - (i) put at risk the safety of the contractor's patients, or
  - (ii) be prejudicial to the efficiency of the provision of primary dental services in the area of the Local Health Board; and
- (c) the partnership has in place adequate arrangements for the provision of services under the agreement during the period of the individual's suspension.

(4) Where the Local Health Board refuses to enter into a personal dental services agreement as a consequence of paragraph (3), it will notify the individual who is suspended in writing of its decision, reasons for that decision and of the individual's right of appeal under article 18.

(5) Where the contracting parties are unable to agree on a particular term of the personal dental services agreement, article 14(3) and (4) will apply.

### **Appeal against refusal to enter into an agreement as a consequence of a suspension**

**18.**—(1) A person who has been notified by a Local Health Board under article 16(4) or 17(4), of its refusal to enter into a personal dental services agreement may appeal to the National Assembly for Wales by giving notice in writing to the National Assembly for Wales within a period of six weeks beginning on the day that the Local Health Board notified him or her of the refusal.

(2) The procedure referred to in article 7(2) to (16) will apply as if the reference—

- (a) in paragraph (2)(b), to article 4(5) or 5(5) were to article 16(4) or 17(4); and
- (b) in paragraph (12)—
  - (i) to a general dental services contract were to a personal dental services agreement,
  - (ii) to GDS Contracts Regulations were to PDS Agreements Regulations, and
  - (iii) to the contract were to the agreement.

### **Duration of entitlement to a personal dental services agreement**

**19.**—(1) In a case where—

- (a) the prospective contractor has appealed in accordance with article 18; and
- (b) the determination requires the Local Health Board to enter into a personal dental services agreement,

the entitlement of the prospective contractor to enter into such an agreement continues for the period of six weeks beginning on the date on which the parties were notified of the determination.

(2) Where a person who is entitled to enter into an agreement under article 14(1), 15(1), 16(1) or 17(1) has been unable to do so before 1 April 2006 because he or she is performing relevant service, he or she will be entitled to exercise his or her entitlement to enter into a personal dental services agreement until the end of the period of six weeks beginning on the date on which he or she ceases to perform relevant service.

(3) Nothing in this Order will require a Local Health Board to enter into a personal dental services agreement with any person (whether that person contracts alone or with others) on more than one occasion.

### **Appeal against failure of a Local Health Board to enter into a personal dental services agreement**

**20.**—(1) This article applies where a person or persons has—

- (a) offered to enter into a personal dental services agreement under article 14, 15, 16 or 17; and
- (b) as a result of a failure to act by the Local Health Board—

- (i) been unable to sign such an agreement before 1 April 2006, or
  - (ii) in a case where article 19 applies, been unable to sign such an agreement within the period of entitlement provided for in accordance with that article.
- (2) Where this article applies, the prospective contractor must, if he or she wishes to enter into a personal dental service agreement, apply in writing to the National Assembly for Wales—
- (a) before 15 April 2006, or
  - (b) in a case where article 19 applies, no later than the end of the period of 14 days beginning on the date his or her entitlement to enter into such an agreement ceases.
- (3) An application under paragraph (2) will specify—
- (a) the names and addresses of the parties to the dispute;
  - (b) the grounds on which the applicant claims to be entitled to enter into a personal dental services agreement; and
  - (c) the grounds for alleging default by the Local Health Board.
- (4) Article 7(3) to (16) will apply to an application made under paragraph (2) subject to the modifications in paragraph (5).
- (5) In article 7—
- (a) in paragraphs (4) and (5), the references to notice of appeal will be read as references to an application under this article; and
  - (b) in paragraph (12)—
    - (i) to a general dental services contract were to a personal dental services agreement,
    - (ii) to GDS Contracts Regulations were to PDS Agreements Regulations, and
    - (iii) to the contract were to the agreement.

## CHAPTER 2

### Agreements: Required Terms

#### **Duration of agreements**

**21.**—(1) In the case of entitlement to a personal dental services agreement under article 14, the duration of the agreement to be entered into will be a period of not less than the unexpired period as at the 31 March 2006 of the pilot scheme agreement.

(2) In the case of entitlement to a personal dental services agreement under article 16 or 17, the duration of the agreement to be made on 1 April 2006 or, where a person is performing relevant service, the date the agreement is to be entered into will be for a period of not less than five years.

#### **Number of units of dental activity**

**22.**—(1) The number of units of dental activity to be provided by the contractor under a personal dental services agreement entered into under Chapter 1 will be determined in accordance with—

- (a) paragraphs (5) to (7) in the case of entitlement to a personal dental services agreement under article 14; or
- (b) paragraphs (2) to (8) in the case of entitlement to a personal dental services agreement under article 15.

(2) The Local Health Board will, by—

- (a) analysing the data it holds in respect of the care and treatment provided under section 35 arrangements during the year 1 October 2004 to 30 September 2005 by the person or persons with whom the agreement is to be entered into;
- (b) categorising that care and treatment in accordance with Schedules 1 to 4 of the NHS Charges Regulations, and the principles set out in regulation 4(2) to (5) of those Regulations; and

- (c) reference to the conversion criteria to units of dental activity specified in Part 1 of Schedule 2 to the GDS Contracts Regulations,

calculate how many units of dental activity is the equivalent to the care and treatment provided by that person or persons during the year 1 October 2004 to 30 September 2005.

(3) For the purposes of analysing the data in cases where a patient was accepted for care and treatment under a capitation arrangement, the Local Health Board will make an assumption that two clinical examinations have taken place during the year 1 October 2004 to 30 September 2005.

(4) The Local Health Board will reduce the number of units of dental activity calculated in accordance with paragraphs (2) and (3) by 10 per cent in order to determine how many units of dental activity the contractor will provide in each financial year.

(5) Where—

- (a) data does not exist for the period specified in paragraph (2)(a); or
- (b) data does exist, but it is appropriate to adjust the data,

the contractor and the Local Health Board will agree the number of units of dental activity to be provided.

(6) Where the contractor and the Local Health Board cannot agree the number of units of dental activity as provided for in paragraph (5), the personal dental services agreement will state this to be the case, and will specify a number of units of dental activity which is determined by the Local Health Board.

(7) In determining the number of units of dental activity to be specified under paragraph (6), the Local Health Board will have regard to any data it holds regarding the amount of care and treatment provided under section 35 arrangements or, as the case may be, the pilot scheme agreement, by the person or persons with whom the personal dental services agreement is to be entered into in the period since 1 October 2004.

(8) Nothing in paragraphs (2) to (4) will prevent the contracting parties agreeing that the contractor will provide a number of units of dental activity that is higher or lower than the number calculated in accordance with those paragraphs.

### **Number of units of orthodontic activity**

**23.**—(1) The number of units of orthodontic activity to be provided by the contractor under a personal dental services agreement entered into under Chapter 1 will be determined in accordance with—

- (a) paragraphs (3) to (5) in the case of entitlement to a personal dental services agreement under article 14;
- (b) paragraphs (2) to (5) and (7) in the case of entitlement to a personal dental services agreement under article 15; or
- (c) paragraph (6) in the case of entitlement to a personal dental services agreement under article 16 or 17.

(2) The Local Health Board will, by—

- (a) analysing the data it holds in respect of the orthodontic care and treatment provided under section 35 arrangements during the year 1 October 2004 to 30 September 2005 by the person or persons with whom the personal dental services agreement is to be entered into; and
- (b) reference to the conversion criteria to units of orthodontic activity specified in Part 2 of Schedule 2 to the GDS Contracts Regulations,

calculate how many units of orthodontic activity is the equivalent to the orthodontic care and treatment provided by that person or persons during the year 1 October 2004 to 30 September 2005.

(3) Where—

- (a) data does not exist for the period specified in paragraph (2)(a); or
- (b) data does exist, but it is appropriate to adjust the data,

the contractor and the Local Health Board will agree the number of units of orthodontic activity to be provided.



(4) Where the contractor and Local Health Board cannot agree the number of units of orthodontic activity as provided for in paragraph (3), the personal dental services agreement will state this to be the case, and will specify a number of units of orthodontic activity which is determined by the Local Health Board.

(5) In determining the number of units of orthodontic activity to be specified under paragraph (4), the Local Health Board will have regard to any data it holds regarding the amount of orthodontic care and treatment provided under section 35 arrangements or, as the case may be, the pilot scheme agreement, by the person or persons with whom the personal dental services agreement is to be entered into in the period since 1 October 2004.

(6) In the case to which paragraph (1)(c) applies, the number of units of orthodontic activity to be provided under the personal dental services agreement will be one fifty-fifth of the negotiated annual agreement value of that agreement, as determined in accordance with directions under section 28E(3A) of the 1977 Act (personal dental services: regulations)(1) (so the contractor and the Local Health Board must agree the number of units of orthodontic activity to be provided and the negotiated annual agreement value simultaneously).

(7) Nothing in paragraph (2) will prevent the contracting parties from agreeing that the contractor will provide a number of units of orthodontic activity that is higher or lower than the number calculated in accordance with that paragraph.

### **Premises, facilities and equipment**

**24.**—(1) Where a Local Health Board is not satisfied that the prospective contractor has practice premises to be used for the provision of services under the personal dental services agreement that are—

- (a) suitable premises for the delivery of those services; or
- (b) sufficient to meet the reasonable needs of the contractor’s patients,

paragraph 13 of Schedule 3 to the PDS Agreements Regulations will apply as substituted by paragraph (2).

(2) For that paragraph 13 substitute the following—

#### **“Premises, facilities and equipment**

**13.**—(1) The Local Health Board and prospective contractor will ensure that the agreement includes a plan that—

- (a) is drawn up and agreed by the Local Health Board and the prospective contractor; and
- (b) specifies—
  - (i) the steps to be taken by the contractor to bring the practice premises up to the appropriate standard,
  - (ii) any financial support that may be available from the Local Health Board, and
  - (iii) the timescale on which the steps referred to in sub-paragraph (i) will be taken.

(2) Subject to the plan referred to in sub-paragraph (1), the contractor will ensure that the practice premises used for the provision of services under the agreement are—

- (a) suitable for the delivery of those services; and
- (b) sufficient to meet the reasonable needs of the contractor’s patients.

(3) The obligation in sub-paragraph (2) includes providing proper and sufficient waiting-room accommodation for patients.

(4) The contractor will provide, in relation to all of the services to be provided under the agreement, such other facilities and equipment as are necessary to enable it to perform those services properly.

(5) In this paragraph, “practice premises” includes a mobile surgery.”.

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(1) Section 28E was inserted into the 1977 Act by the 1997 Act, section 22(1) and subsection (3A) was inserted into section 28E by the 2003 Act, section 177(8).

### **Treatment commenced prior to 1 April 2006**

25.—(1) Where care and treatment is commenced under section 35 arrangements or, as the case may be, a pilot scheme agreement, before 1 April 2006 and is not completed on 31 March 2006 the contractor will use its best endeavours to complete that treatment under its personal dental services agreement in accordance with paragraph 5(3) of Schedule 1 or, as the case may be, paragraph 7(2) of Schedule 3 to the PDS Agreements Regulations.

(2) Subject to paragraph (3), where treatment specified in a treatment plan provided in accordance with—

- (a) paragraph 4 of Schedule 1 to the 1992 Regulations (as amended by article 27); or
- (b) the PDS Directions (as modified by article 28),

is not completed by 1 April 2006 that plan will, after that date, be treated as though it were a treatment plan provided in accordance with paragraph 8 of Schedule 3 to the PDS Agreements Regulations and with regard to that plan, the requirements in sub-paragraph (1) of that paragraph were satisfied.

(3) Where treatment specified in a treatment plan in respect of orthodontic care and treatment provided in accordance with—

- (a) paragraph 4 of Schedule 1 to the 1992 Regulations (as amended by article 27); or
- (b) the PDS Directions as modified by article 28,

is not completed by 1 April 2006 that plan will, after that date, be treated as though it were a treatment plan provided in accordance with paragraph 6 of Schedule 1 to the PDS Agreements Regulations and with regard to that plan, the requirements in sub-paragraph (1) of that paragraph were satisfied.

(4) Where care and treatment is commenced prior to 1 April 2006 and continues or is completed on or after that date, all of that care and treatment provided will be treated as though it were a course of treatment or, as the case may be, an orthodontic course of care and treatment provided in accordance with the PDS Agreements Regulations.

## **PART 4**

### **MISCELLANEOUS TRANSITORY PROVISIONS**

#### **Prior approval of treatment**

26. Notwithstanding the requirement for prior approval of treatment required as a consequence of the following provisions of the 1992 Regulations—

- (a) paragraph 26 of Schedule 1 (terms of service for dentists);
- (b) Schedule 4 (prior approval treatment); and
- (c) regulation 3 (terms of service) (in so far as it relates to those Schedules),

paragraphs 26 (prior approval of care and treatment) and 27 (completion of estimate) of Schedule 1 to those Regulations will not apply in respect of care and treatment to be provided on or after 4 March 2006 which, save for this article, would require or include prior approval treatment.

#### **Amendment to the 1992 Regulations in respect of treatment plans**

27.—(1) Schedule 1 to 1992 Regulations (terms of service) will apply as amended by this article in respect of care and treatment provided on or after 3 March 2006.

(2) In paragraph 4 of Schedule 1 to the 1992 Regulations—

- (a) for sub-paragraph (2)(c), there is substituted—

“(c) in the opinion of the dentist, additional care and treatment not included in the treatment plan is necessary to secure and maintain the oral health of the patient.”; and

- (b) sub-paragraph (3) is omitted.

(3) In paragraph 5 of Schedule 1 to the 1992 Regulations for sub-paragraph (2)(c) there is substituted—

“(c) in the opinion of the dentist, additional care and treatment not included in the treatment plan is necessary to secure and maintain the oral health of the patient.”.

### **Treatment plans in respect of pilot scheme agreements**

**28.**—(1) For the purposes of regulation 13(1) of the NHS Charges Regulations, paragraphs (2) to (4) will apply in respect of care and treatment provided under a pilot scheme agreement on or after 3 March 2006 as though it were a direction made in the PDS Directions and incorporated as a term of a pilot scheme agreement.

(2) At the first examination and assessment of a patient, a pilot dentist will provide the patient with a plan for treatment on a form supplied for that purpose by the Local Health Board.

(3) The form referred to in paragraph (2) will specify—

- (a) the name of the patient;
- (b) the name of the pilot dentist and the telephone number at which the dentist may be contacted in normal working hours;
- (c) the name of the pilot scheme provider;
- (d) details of the care and treatment, if any, which in the opinion of the pilot dentist, at the date of the relevant examination, is necessary to secure and maintain the oral health of the patient;
- (e) particulars of the places where the patient will receive treatment;
- (f) the approximate period following which a further examination is recommended by the pilot dentist;
- (g) his or her estimate of the NHS Charge, if any, in respect of that care and treatment; and
- (h) any proposals the pilot dentist may have for private care and treatment as an alternative to the care and treatment proposed under the pilot scheme agreement, including particulars of the cost to the patient.

(4) A pilot dentist will, where at any time during the continuing care and treatment of the patient—

- (a) the treatment provided, in the opinion of the dentist, needs to be varied;
- (b) the patient requests a new plan for treatment;
- (c) the patient and the dentist have agreed that all or part of the treatment which is necessary to secure and maintain oral health is to be provided privately; or
- (d) in the opinion of the dentist, additional care and treatment not included in the treatment plan, is necessary to secure and maintain the oral health of the patient,

provide the patient, in the case of sub-paragraph (a) with a revised plan, or with a new plan for treatment which complies with the requirements of paragraph (3).

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998<sup>(1)</sup>

Date

The Presiding Officer of the National Assembly

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<sup>(1)</sup> 1998 c.38.