

2008 No. 1976(W. 185)

PUBLIC HEALTH, WALES

**The Private Dentistry (Wales)
Regulations 2008**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Care Standards Act 2000 (“the Act”). They modify the Act so as to apply Part II of the Act to dentists who provide dental services otherwise than in pursuance of the National Health Service (Wales) Act 2006 (“private dentistry”). They make provision in relation to those persons and services.

Part I of the Act and Part II as applied by these Regulations provide for the Welsh Ministers, in relation to Wales, to register persons providing private dentistry. Part II provides that a person who provides private dentistry without being registered to do so commits an offence. The Act also provides for the Welsh Ministers to make regulations in relation to such persons and services. Under section 13 of the Act the Welsh Ministers must be satisfied that the regulations are being and will continue to be complied with before an application for registration is granted.

Regulations 3 and 4 and Schedule 1 apply, with modification, Part II of the Act to persons who provide private dentistry.

Regulation 5 specifies the form for making an application for registration and the information that must be supplied with that application. Distinction is made between those applicants who intend to provide only private dental services and those who also provide dental services for the purposes of the NHS. Regulation 6 requires the disclosure of spent convictions if requested by the registration authority and regulation 7 requires the applicant to give notice of certain changes if they occur between application and registration.

Regulation 8 specifies the contents of the certificate of registration. Regulation 9 requires return of the

certificate following cancellation. Regulation 10 specifies the procedure for application for variation or removal of a condition of registration.

Regulations 11 and 12 make provision about the cancellation of registration.

Regulation 13 and Schedule 2 set out requirements in relation to the fitness of a registered person.

Regulation 14 makes provision about the quality of private dental services. Regulations 15 and 16 make provision about complaints procedure and handling of complaints.

Regulation 17 prescribes the annual fee payable by registered persons. Regulation 18 requires notification to be given of certain events. Regulation 19 specifies that failure to comply with certain regulations is an offence. Regulation 20 provides that the registration authority may specify an appropriate office for the purpose of these Regulations. Regulations 21 and 22 make consequential amendments and regulation 23 makes transitional provisions.

2008 No. 1976 (W.185)

PUBLIC HEALTH, WALES

**The Private Dentistry (Wales)
Regulations 2008**

Made 23 July 2008

Laid before the National Assembly for Wales
24 July 2008

Coming into force 1 January 2009

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Schedule 2

INFORMATION AND DOCUMENTS TO BE
AVAILABLE IN RESPECT OF
REGISTERED PERSONS

The Welsh Ministers, having consulted such persons as they consider appropriate⁽¹⁾, make the following Regulations in exercise of the powers conferred upon them by Sections 12(2), 14(1)(d), 15(3), 16(1), 16(3) 22(1), 22(2)(a), (c) and (d), 25(1), 42(1) and 118(5) to (7) of the Care Standards Act 2000⁽²⁾.

⁽¹⁾ See section 22(9) of the Care Standards Act 2000 for the requirement to consult.

⁽²⁾ 2000 c.14. The powers are conferred upon the “appropriate Minister”. “Appropriate Minister” means the Assembly in relation to Wales: see section 121(1) of the Act. The powers are transferred to the Welsh Ministers by paragraph 30 of schedule 11 to the Government of Wales Act 2006 (c.32). Section 42(1) of the Act provides that regulations may apply the provisions of Part II of the Act to persons prescribed by those regulations. By virtue of regulation 3 (made under s.42(1) of, and Schedule 1 to, these Regulations, the persons prescribed in regulation 3(1) are made subject to the relevant provisions of Part II of the Act.

PART I – GENERAL

Title, commencement and application

1.—(1) The title of these Regulations is the Private Dentistry (Wales) Regulations 2008 and they come into force on 1 January 2009.

(2) These Regulations apply in relation to Wales.

Interpretation

2.—(1) In these Regulations —

“the Act” (“*y Ddeddf*”) means the Care Standards Act 2000;

“appropriate office of the registration authority” (“*swyddfa bridol yr awdurdod cofrestru*”) means in relation to a provider of dental services —

- (a) if an office of the registration authority has been specified under regulation 20 that office; or
- (b) in any other case, any office of the registration authority;

“complaints procedure” (“*yr weithdrefn gwynion*”) must be construed in accordance with regulation 15;

“dental performers list” (“*thestr performwyr deintyddol*”) means the list prepared by a Local Health Board or Primary Care Trust and published pursuant to regulation 3(1)(b) of the National Health Service (Performers Lists) (Wales) Regulations 2004(1) or regulation 3(1)(b) of the National Health Service (Performers Lists) Regulations 2004(2) as appropriate;

“dental services” (“*gwasanaethau deintyddol*”) means any dental treatment provided by a dentist;

“dentist” (“*deintydd*”) means a person registered under the Dentists Act 1984;

“dentists register” (“*Cofrestr deintyddion*”) means the register referred to in section 14(1) of the Dentists Act;

“insurance” (“*yswiriant*”) means —

- (a) a contract of insurance providing cover for liabilities which may be incurred in carrying out work as a dentist or clinical dental technician, or
- (b) an arrangement made for the purpose of indemnifying a person against such liabilities;

“list of visiting EEA practitioners” (“*rhestr o ymarferwyr aee sy’n ymweld*”) means the list

(1) S.I. 2004/1020 (W.117).

(2) S.I. 2004/585.

prepared by the General Dental Council of visiting EEA practitioners working on a temporary and occasional basis;

“private dental services” (“*gwasanoethau deintyddol preifat*”) means dental services not provided under the National Health Service (Wales) Act 2006⁽¹⁾;

“patient” (“*claf*”) means a person to whom dental services are provided;

“private dentistry” (“*deintyddiaeth breifat*”) means dental services provided otherwise than for the purposes of the National Health Service;

“professional registration number” (“*rhif cofrestriad proffesiynol*”) means the number against the person’s name in the dentists register;

“registered person” (“*person cofrestredig*”) means a person who is registered as a provider of dental services;

“working day” (“*diwrnod gwaith*”) means a day except Saturday, Sunday, Christmas Day, Boxing Day, Good Friday or a day which is a bank holiday under the Banking and Financial Dealings Act 1971⁽²⁾.

(2) In these Regulations a reference —

- (a) to a numbered regulation or Schedule is to the regulation in or Schedule to these Regulations bearing that number;
- (b) in a regulation or Schedule to a numbered paragraph is to the paragraph in that regulation or Schedule bearing that number;
- (c) in a paragraph to a letter or numbered sub-paragraph is to the sub-paragraph in that paragraph bearing that number or letter.

(3) In Schedule 1, a reference to Part II of the Act is to Part II of the Act as applied by regulation 3 and Schedule I.

Prescribed persons

3.—(1) A dentist who provides any dental service otherwise than in pursuance of the National Health Service (Wales) Act 2006 is hereby prescribed for the purposes of section 42(1) of the Act.

(2) Part II of the Act applies to persons prescribed in paragraph (1) in accordance with Schedule 1 and with the modification specified in regulation 4.

⁽¹⁾ 2006 c.42.

⁽²⁾ 1971 c.80.

Modification of section 28 of the Act (failure to display certificate of registration)

4. Section 28(1) has effect as if it read:

“A certificate of registration issued under this Part in respect of a person who provides private dental services must be kept affixed in a conspicuous place where such services are provided.”

PART II

APPLICATIONS FOR REGISTRATION

Information and documents to be provided by an applicant

5.—(1) An application for registration must —

- (a) be in writing on a form approved by the registration authority;
- (b) be sent or delivered to the appropriate office of the registration authority;
- (c) be accompanied by a recent photograph of the applicant, of whom the photograph shall be a true likeness;
- (d) give the information or be accompanied by the documents that the applicant is required to provide in accordance with paragraph (2), (3) or (4); and
- (e) be accompanied by a fee of £50 in respect of each applicant.

(2) Subject to paragraphs (3) and (4) a person who is seeking to be registered as a person who provides dental services privately must provide to the registration authority full information listed in subparagraphs (a) to (k) and (m) —

- (a) the applicant’s full name, date of birth, home address and telephone number and an address (which may be the home address) at which the dentist may be contacted by patients;
- (b) chronological details of the applicant’s professional experience, both before and after graduation, so far as relevant to the provision of dental services including periods of self employment, dates of all posts held, the reason for leaving each post and explanation for any gap between posts;
- (c) the name and addresses of two referees —
 - (i) who are not relatives of the applicant;
 - (ii) each of whom is able to provide a reference as to the applicant’s competence to provide dental services; and

- (iii) each of whom is able to provide a reference which relates to a recent period of employment or post of at least 3 months;

but in respect of each referee where the registration authority is satisfied that it is not practicable to obtain a reference from a person who fulfils the requirement in sub-paragraph (iii), a full explanation and the name and address of an alternative referee who does not meet those requirements;

- (d) a declaration that he or she is included in either the dentists register or list of visiting EEA practitioners;
- (e) either his or her professional registration number and date of first registration or a visiting EEA Dentist Certificate;
- (f) a certificate of insurance for the applicant in respect of liability which may be incurred by him or her in relation to the provision of dental services in respect of death, injury, public liability, damage or other loss;
- (g) his or her professional qualifications and where they were obtained, with evidence concerning his or her qualifications and experience;
- (h) the applicant's birth certificate or, if the applicant was born outside the United Kingdom, his or her passport;
- (i) where the applicant is not a national of an EEA state evidence of the applicant's proficiency in the English language to a level necessary for the provision of dental services;
- (j) an enhanced criminal records certificate —
 - (i) which has been issued under section 113B of the Police Act 1997(1); and
 - (ii) the application for which was countersigned by the registration authority;
- (k) a statement by the applicant that they are complying with and will continue to comply with, these Regulations in relation to the provision of dental services;
- (l) a statement by the applicant that they are currently on a dental performers list and the name and address of the Local Health Board or Primary Care Trust that has published that list;

(1) 1997 c.50

(m) details of any condition imposed on his or her professional registration or inclusion on a dental performers list.

(3) A person who is seeking to be registered as a person who provides dental services privately and who is currently on an NHS dental performers list must provide to the registration authority full information listed in paragraphs (a), (k), (l) and (m).

(4) A person who falls within paragraph (3) but in respect of whom an enhanced criminal record certificate has not been obtained in connection with inclusion in that dental performers list must in addition provide the information listed in (j).

Convictions

6. Where the registration authority asks the applicant for details of any criminal convictions which are spent within the meaning of section 1 of the Rehabilitation of Offenders Act 1974⁽¹⁾ and informs him or her at the time the question is asked that by virtue of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975⁽²⁾ spent convictions are to be disclosed, the applicant must supply in writing to the registration authority details of any spent convictions that he or she has.

Notice of changes

7. The applicant must give notice in writing to the registration authority of any change of the name or address of the applicant which occurs after the application for registration is made and before it is determined.

PART III

CERTIFICATES OF REGISTRATION

Contents of certificate

8. A certificate of registration must contain the following particulars —

- (a) the name, address and telephone number of the appropriate office of the registration authority;
- (b) the name of and the address at which the person who has been registered to provide dental services may be contacted by patients;
- (c) where the registration is subject to any condition, details of that condition;

⁽¹⁾ 1974 c.53.

⁽²⁾ S.I. 1975/1023.

- (d) the date of registration;
- (e) except where the registered person is on the list of visiting EEA practitioners the registered person's professional registration number;
- (f) any number allocated to the registration by the registration authority.

Return of certificate

9. If the registration of a person to provide dental services is cancelled, the person must, not later than the day on which the decision or order cancelling the registration takes effect, return the certificate of registration to the registration authority by —

- (a) delivering it to the appropriate office of the registration authority; or
- (b) sending it to the said office by registered post or recorded delivery.

Application for variation or removal of a condition

10.—(1) In this regulation —

“application” means an application by the registered person under section 15(1)(a) of the Act for the variation or removal of a condition in relation to that registration;

“proposed effective date” means the date requested by the registered person as the date on which the variation or removal applied for is to take effect.

(2) An application must —

- (a) be made in writing;
- (b) be sent or delivered to the appropriate office of the registration authority not less than six weeks before the proposed effective date or such shorter period before that date as may be agreed with the registration authority;
- (c) specify the nature of the application and the applicant's reasons for making it;
- (d) specify the effective date;
- (e) be accompanied by a fee of £50.

(3) The registered person must provide the registration authority with any other information or documents that it may reasonably require in relation to the application.

PART IV

CANCELLATION OF REGISTRATION

Cancellation of registration

11. The following grounds are specified for the purpose of section 14(1)(d) of the Act as grounds on which the registration authority may cancel the registration of a person to provide dental services –

- (a) the person has in relation to any application by him or her —
 - (i) for registration; or
 - (ii) for the variation or removal of a condition in relation to his or her registration,
made a statement which is false or misleading in a material respect or provided false information;
- (b) the annual fee in respect of the registration has not been paid by the due date.

Application for cancellation of registration

12.—(1) In this regulation —

“application for cancellation” means an application by the registered person under section 15(1)(b) of the Act for the cancellation of his or her registration;

“proposed effective date” means the date requested by the registered person as the date on which the cancellation applied for is to take effect.

- (2) An application for cancellation must –
- (a) be made in writing;
 - (b) sent or delivered to the appropriate office of the registration authority not less than 3 months before the proposed effective date or such shorter period before that date as may be agreed with the registration authority.
 - (c) specify the proposed effective date.

PART V

REGISTERED PERSONS

Fitness of registered person

13.—(1) A person shall not provide dental services unless fit to do so.

(2) A person is not fit to provide dental services unless the person is an individual who satisfies the requirements set out in paragraph (3).

- (3) The requirements are that —
 - (a) the individual is of suitable integrity and good character to provide dental services;
 - (b) the individual is physically and mentally fit to provide dental services; and
 - (c) full and satisfactory information or documentation, as the case may be, is available in relation to the individual in respect of the matters specified in Schedule 2.
- (4) The registration authority may at any time require the registered person to apply for an enhanced criminal record certificate under section 113B of the Police Act 1997, such application to be countersigned on behalf of the registration authority.

PART VI

QUALITY OF SERVICE PROVISION

Quality of treatment

14.—(1) The registered person must ensure that dental services provided to each patient —

- (a) meet the patient’s individual needs;
- (b) reflect published research evidence and guidance issued by the appropriate professional and expert bodies;
- (c) are (where necessary) provided by means of appropriate equipment;
- (d) are provided in an environment which promotes patient well-being and is designed for the effective and safe provision of treatment.

(2) The registered person must ensure that working practices take account of quality assurance, quality improvement and patient safety.

(3) The registered person must ensure that all equipment used in the provision of dental services is-

- (a) suitable for the purposes for which it is to be used; and
- (b) properly maintained and in good working order.

(4) Where reusable devices are used in the provision of dental services the registered person must ensure that appropriate procedures are implemented in relation to cleaning, disinfection, inspection, packaging, sterilisation, transportation and storage of such devices.

(5) The procedures implemented in accordance with paragraph (4) must be such as to ensure that reusable

devices are handled safely and decontaminated effectively prior to re-use.

(6) The registered person must make suitable arrangements to minimise the risk of infection and the spread of infection.

Complaints

15.—(1) The registered person must prepare and follow a written procedure (“the complaints procedure”) for considering complaints made to the registered person by a patient or person acting on the patient’s behalf (“the complainant”).

(2) The registered person must ensure that patients and representatives of patients are aware of the existence of the complaints procedure and are provided with a copy on request or, if not already provided, when a complaint is received.

(3) The registered person must ensure that any staff employed by the registered person in connection with the provision of dental services are informed about, given a copy of and appropriately trained in the operation of the complaints procedure.

(4) The complaints procedure must include —

- (a) the name, address and telephone number of the appropriate office of the registration authority; and
- (b) the procedure, if any, that has been notified to the registered person by the registration authority for the making of complaints to that authority.

Handling complaints

16.—(1) In operating the complaints procedure the registered person must take account of the ascertainable wishes and feelings of, and respect the privacy of, the patient.

(2) When a complaint is made, the registered person must advise the complainant of their right to at any time complain to the registration authority.

(3) The registered person must acknowledge receipt of the complaint within 3 working days of receipt.

(4) Subject to paragraph (5) the registered person must ensure that a written response is sent to the complainant no later than 10 working days after receipt of the complaint.

(5) The period referred to in paragraph (4) may be extended to a specified date upon request by the complainant or with the complainant’s agreement.

(6) Where the period is extended under paragraph (5) otherwise than upon request by the complainant the registered person must review the progress of consideration of the complaint at intervals no longer

than every 10 days apart after that agreement and notify the complainant of that progress in writing.

(7) The response must —

- (a) summarise the nature and substance of the complaint;
- (b) describe the action taken to consider the complaint and summarise the conclusions made;
- (c) explain what action, if any, will be taken in the light of the complaint.

(8) Where requested to do so by the registration authority, the registered person must provide the registration authority with a copy of the response sent to the complainant.

PART VII

MISCELLANEOUS

Annual fee

17. The registered person must pay an annual fee of £50, the first such fee being payable on the anniversary of the date of registration.

Notice of changes

18. The registered person must give notice in writing to the appropriate office of the registration authority as soon as it is practicable to do so if any of the following events take place or are proposed to take place —

- (a) the registered person ceases to provide dental services;
- (b) the registered person changes his or her name;
- (c) the registered person changes his or her home address or address at which he or she may be contacted by patients;
- (d) the registered person ceases to be on a dental performers list; or
- (e) the registered person ceases to be on the dentists register;
- (f) the registered person is convicted of, or cautioned in respect of, any offence other than a road traffic offence which is not punishable with imprisonment.

Offences

19. Failure to comply with any of the provisions of regulations 9 and 14 to 16 is an offence.

Specification of appropriate offices

20. The registration authority may specify an office controlled by it as the appropriate office in relation to persons who provide dental services.

Amendment of the Registration of Social Care and Independent Health Care (Wales) Regulations 2002

21.—(1) The Registration of Social Care and Independent Health Care (Wales) Regulations 2002(1) are amended in accordance with the following provisions of this regulation.

(2) In regulation 1 at the end add –

“(3) These Regulations do not apply to persons who provide dental services.”

(3) In Regulation 2(1) at the appropriate place insert —

“dental services” (“*gwasanaethau deintyddol*”) has the same meaning as in the Private Dentistry (Wales) Regulations 2008;”.

Amendment of the Care Standards Act 2000 and the Children Act 1989 (Abolition of Fees)(Wales) Regulations 2006

22.—(1) The Care Standards Act 2000 and the Children Act 1989 (Abolition of Fees) (Wales) Regulations 2006(2) are amended in accordance with the following provisions of this regulation.

(2) In regulation 1(2) in the appropriate place insert —

““dental services” (“*gwasanaethau deintyddol*”) has the same meaning as in the Private Dentistry (Wales) Regulations 2008;”

(3) At the end of regulation 1 add –

“(4) These Regulations do not apply to persons who provide dental services.”

Transitional provisions

23.—(1) This regulation applies to persons who by virtue of the provisions of the Act and these Regulations are required to be registered under the Act but who immediately before 1 January 2009 were not required to be so registered.

(2) Notwithstanding any such provision, a person who immediately before 1 January 2009 was providing dental services may continue to do so without being registered under the Act –

(1) S.I. 2002/919 (W.107).

(2) S.I. 2006/878 (W.83).

- (a) during the period of 6 months beginning with that date; and
- (b) if within that period application is made for registration, until that application is finally disposed of or withdrawn.

(3) In this regulation “finally disposed of” means the date 28 days following the grant or refusal of registration and, if an appeal is made, the date when the appeal is finally determined or abandoned.

Edwina Hart

Minister for Health and Social Services, one of the
Welsh Ministers

23 July 2008

SCHEDULE 1

Regulation 3

APPLICATION OF PART II OF THE CARE STANDARDS ACT 2000 TO PERSONS PROVIDING PRIVATE DENTAL SERVICES

For the purposes of this Schedule references in Part II of the Act –

- (a) to an establishment or agency shall be taken as references to a person who provides private dental services;
- (b) to facilities or services provided in an establishment shall be taken as references to facilities or services provided by a person who provides dental services;
- (c) to premises being used as an establishment or for the purposes of an agency shall be taken as references to premises used for the purposes of the provision of dental services;
- (d) to carrying on or managing an establishment or agency shall be taken as references to providing private dental services.

SCHEDULE 2

Regulation 13

INFORMATION AND DOCUMENTS TO BE AVAILABLE IN RESPECT OF REGISTERED PERSONS

- 1.** Proof of identity including a recent photograph.
- 2.** An enhanced criminal record certificate in respect of which less than three years have elapsed since it was issued.
- 3.** A declaration by the registered person that he or she is included in the dentists register.
- 4.** The registered person's professional registration number or visiting EEA Dentist Certificate.
- 5.** A certificate of insurance for the registered person in respect of liability which may be incurred by him or her in relation to the provision of dental services in respect of death, injury, public liability, damage or other loss.