

**2013 No. 469**

**NATIONAL HEALTH SERVICE, ENGLAND**

**The Functions of the National Health Service Commissioning Board and the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Primary Dental Services) (England) Regulations 2013**

<i>Made</i> - - - -	<i>1st March 2013</i>
<i>Laid before Parliament</i>	<i>6th March 2013</i>
<i>Coming into force</i> - -	<i>1st April 2013</i>

The Secretary of State for Health makes the following Regulations in exercise of the powers conferred by sections 7(1), 272(7) and (8) and 273(4) of the National Health Service Act 2006(a).

The Secretary of State has consulted the Board in relation to the functions to be exercised by the Authority under these Regulations as required by section 7(1B)(b) of the 2006 Act.

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Functions of the National Health Service Commissioning Board and the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Primary Dental Services) (England) Regulations 2013 and come into force on 1st April 2013.

(2) In these Regulations—

“the 2006 Act” means the National Health Service Act 2006;

“the 2006 Regulations” means the Functions of Primary Care Trusts and Strategic Health Authorities and the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Primary Dental Services) (England) Regulations 2006(c);

“the Authority” means the NHS Business Services Authority established by the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution) Order 2005(d);

“the Board” means the National Health Service Commissioning Board(e);

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- (a) 2006 c.41. By virtue of section 271(1) of the National Health Service Act 2006, the powers conferred by these sections are exercisable by the Secretary of State only in relation to England. Section 273(4) is amended by sections 21(6)(a) and (b), 47(7) and 55(1) of, and paragraphs 137(1) and (3)(a) and (b) of, Schedule 4 to, the Health and Social Care Act 2012 (c. 7), and article 5(1) of, and paragraphs 109, and 126(a) of, Schedule 2 to, S.I. 2010/22. See section 275(1) for the definition of “regulations”.
- (b) Section 7(1) of the 2006 Act is amended by section 21(2) of the Health and Social Care Act 2012.
- (c) S.I. 2006/596; as amended by S.I. 2012/502.
- (d) S.I. 2005/2414; as amended by S.I. 2006/632 and 2007/1201.
- (e) The National Health Service Commissioning Board is established by section 1H of the National Health Service Act 2006. Section 1H is inserted by section 9 of the Health and Social Care Act 2012.

“contractor” means a person, other than the Board, who is a party to a GDS Contract or a PDS Agreement;

“GDS Contract” is a contract within the meaning of section 100 of the 2006 Act (general dental services contracts: introductory)(a);

“GDS Contracts Regulations” means the National Health Service (General Dental Services Contracts) Regulations 2005(b);

“PDS Agreement” means an agreement within the meaning of section 107 of the 2006 Act (arrangements by the Board for the provision of primary dental services)(c);

“PDS Agreements Regulations” means the National Health Service (Personal Dental Services Agreements) Regulations 2005(d);

“Primary Care Trust” means the body, which until the date section 34 (abolition of Primary Care Trusts) of the Health and Social Care Act 2012(e) comes into force, is the Primary Care Trust which was a party to the GDS contract; and

“Relevant Body” means the body which, until the date sections 33 (abolition of Strategic Health Authorities) or 34 (abolition of Primary Care Trusts) of the Health and Social Care Act 2012 comes into force, is the Primary Care Trust, or the Strategic Health Authority, which was a party to the PDS Agreement.

### **Functions of the Board exercisable by the Authority**

2.—(1) The functions of the Board relating to primary dental services in England under the provisions specified in column 1 of the Schedule in respect of the matters indicated in column 2 of that Schedule are to be exercised by the Authority.

(2) The Authority must exercise the functions set out in column 3 of the Schedule which are ancillary, related or supplemental to the functions set out in column 2 of that Schedule.

(3) In the case of the function of the Board of making payments under directions under—

- (a) section 103(1) of the 2006 Act, as regards GDS Contracts, referred to in entry (a) of column 2, relating to entry 1 in column 1, of the Schedule; and
- (b) section 109(4) of the 2006 Act, as regards PDS Agreements, referred to in entry (a) of column 2, relating to entry 3 in column 1, of the Schedule,

the Board may only itself exercise the function where the Authority is unable to do so for reasons other than a failure by the Board to co-operate in a reasonable manner with it.

(4) In so far as these Regulations provide for the Authority to exercise a function under paragraph (1) of this regulation, and column 2 of the Schedule—

- (a) any act or omission of the Authority in the exercise of the function must be treated solely as an act or omission of the Board; and
- (b) any obligation, right or liability arising from the terms of the GDS Contract or PDS Agreement which gives rise to the functions specified in column 1 of the Schedule remain solely with the Board and must not transfer to the Authority notwithstanding that the function is exercisable or was exercised by the Authority.

(5) The contractor may not refuse to carry out any obligation or requirement, or claim for breach of contract under the terms of the GDS Contract or PDS Agreement, on the ground that the Board has failed to comply with a corresponding obligation or requirement under the terms of that Contract or Agreement, if the Authority has exercised the function which gave rise to those obligations or requirements.

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(a) Section 100 is amended by section 55(1) of, and paragraph 43 of Schedule 4 to, the Health and Social Care Act 2012 (c. 7).  
(b) S.I. 2005/3361; as amended by S.I. 2006/563, 2007/544, 2008/528, 1514, and 1700, 2009/309 and 462, 2010/22 and 1881, 2011/1182 and 2012/502, 2273 and 2404.  
(c) Section 107 is amended by section 55(1) of, and paragraph 48 of Schedule 4 to, the Health and Social Care Act 2012.  
(d) S.I. 2005/3373; as amended by S.I. 2006/563, 2007/544, 2008/528, and 1514, 2009/309 and 462, 2010/22 and 1881, 2011/1182 and 2012/502, 2273 and 2404.  
(e) 2012 c.7.

(6) Except as provided in paragraph (7), where the Authority is given the function under these Regulations of receiving or being given access to records, forms, documents or information, or of requesting any records, forms, documents or information, the contractor must—

- (a) send or give access to such records, forms, documents or information to the Authority; and
- (b) upon sending or giving access to such records, forms, documents or information to the Authority, be treated as having complied with the terms of the GDS Contract or PDS Agreement which give rise to the obligation or requirement to do so.

(7) Where the Board requests under the GDS Contract or PDS Agreement the contractor to send or give access to records, forms, documents or information under paragraph 35, 37 or 44 of Schedule 3 to the GDS Contracts Regulations, or paragraph 36, 38 or 44 of Schedule 3 to the PDS Agreements Regulations, the contractor must send or give access to such records, forms, documents or information to the Board notwithstanding the fact that it may have provided that record, form, document or information to the Authority or may be under an obligation to do so.

#### **Transitional provision relating to continuity of the validity of forms**

3. Any form supplied by a Primary Care Trust in the case of a GDS Contract, or a Relevant Body in the case of a PDS Agreement, continues to be a valid form in relation to the Board until it is cancelled or withdrawn by the Board.

#### **Transitional provision relating to functions exercisable by the Authority**

4. Where any matter under the 2006 Regulations is ongoing immediately before 1st April 2013, that matter is to be treated as ongoing under these Regulations—

- (a) but with the Board instead of the Primary Care Trust in the case of a GDS Contract, or Relevant Body in the case of a PDS Agreement, responsible for that matter; and
- (b) the Board is entitled to rely on any actions already undertaken by the Primary Care Trust in the case of a GDS Contract, or Relevant Body in the case of a PDS Agreement, in relation to that matter; and
- (c) any action of the Authority exercising functions on behalf of the Primary Care Trust in the case of a GDS Contract, or Relevant Body in the case of a PDS Agreement, is to be treated as an action in relation to such functions taken by the Authority on behalf of the Board.

#### **Revocations**

5. The following Regulations are revoked—

- (a) the 2006 Regulations; and
- (b) regulation 5 of the National Health Service (Primary Dental Services) (Miscellaneous Amendments) Regulations 2012(a).

Signed by authority of the Secretary of State for Health.

1st March 2013

*Earl Howe*  
Parliamentary Under-Secretary of State,  
Department of Health

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(a) S.I. 2012/502.

## SCHEDULE

Regulation 2(1) and (2)

### Functions of the Board exercisable by the Authority

**Table 1**

Column 1	Column 2	Column 3
Provision	Function	Ancillary, Related or Supplemental Functions
<b>National Health Service Act 2006</b>		
1. Directions under section 103(1) (GDS contracts: payments) in respect of the payments to be made under GDS Contracts.	<p>(a) The making of payments to the contractor which are required to be paid under the directions.</p> <p>(b) Adjusting the amount of payments to the contractor, as required by the directions, by the annual uplift in respect of each financial year that is determined by the Secretary of State following consideration of a recommendation by the Review Body for Doctors' and Dentists' Remuneration.</p> <p>(c) Providing a monthly payment schedule to the contractor in respect of the payments made to the contractor under the GDS Contract.</p>	<p>(a) Providing a monthly payment schedule, which under the directions must be sent to the contractor, to the Board in respect of the payments made to the contractor under the GDS Contract.</p> <p>(b) After the end of each financial year, providing an annual reconciliation statement to the Board about the payments made to the contractor under the GDS Contract in respect of that financial year, and by a date which allows the Board sufficient time to prepare the contractor's Annual Reconciliation Report, required under the directions. Providing timely reports to the Board in respect of any information which the Authority discovers in the course of or as a consequence of making payments required to be paid to the contractor or to a performer of primary dental services who is suspended from a dental performers list.</p>
2. Regulations made under section 106(3)(f) (persons performing primary dental services).	The making of payments which are required to be paid to the contractor or to a performer of primary dental services who is suspended from a dental performers list.	Providing timely reports to the Board in respect of any information which the Authority discovers in the course of or as a consequence of making payments required to be paid to the contractor or to a performer of primary dental services who is suspended from a dental performers list and which the Authority considers might be evidence of a breach of contract, an unlawful activity or an irregularity or which is otherwise unusual.
3. Directions under section 109(4) (regulations about section 107 arrangements) in respect of the payments to be made under PDS Agreements.	<p>(a) The making of payments to the contractor which are required to be paid under the directions.</p> <p>(b) Adjusting the amount of payments to the contractor, as required by the directions, by the annual uplift in respect of</p>	(a) Providing a monthly payment schedule, which under the directions must be sent to the contractor, to the Board in respect of the payments made to the contractor under the PDS Agreement.

	each financial year that is determined by the Secretary of State following consideration of a recommendation by the Review Body for Doctors' and Dentists' Remuneration.	(b) After the end of each financial year, providing an annual reconciliation statement to the Board about the payments made to the contractor under the PDS Agreement in respect of that financial year, and by a date which allows the Board sufficient time to prepare the contractor's Annual Reconciliation Report, required under the directions.
	(c) Providing a monthly payment schedule to the contractor in respect of the payments made to the contractor under the PDS Agreement.	(a) Providing the Board with information received from a contractor or person proposing to provide services to enable the Board to make a determination in respect of the provision of assistance or support under the section.
4. Section 112 (assistance and support: primary dental services).	The making of payments under the section to the contractor or person proposing to provide services that the Board determined that it is to make.	(b) Providing timely reports to the Board in respect of any information which the Authority discovers in the course of or as a consequence of making payments to the contractor under the section (or as a result of ancillary, related or supplemental functions) and which the Authority considers might be evidence of a breach of contract, an unlawful activity or an irregularity or which is otherwise unusual.
		(c) Providing timely reports to the Board in respect of any payments made to a person proposing to provide services.

**The National Health Service (General Dental Services Contracts) Regulations 2005**

5. Regulation 21(1) and (2) (finance).	The making of payments to the contractor which are required to be paid under the GDS Contract including under the directions made under section 103 of the 2006 Act.	Providing timely reports to the Board in respect of any information which the Authority discovers in the course of or as a consequence of making payments to the contractor under the GDS Contract, including under the directions made under section 103 of the 2006 Act (or as a result of ancillary, related or supplemental functions) and which it considers might be evidence of a breach of contract, an unlawful activity or an irregularity or which is
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**SCHEDULE 1 (additional services)**

6. Paragraph 8(2) and (3) (completion of orthodontic courses of treatment).

Requesting and receiving from the contractor—

(a) the reasons for failure to complete one or more orthodontic courses of treatment and determining the period within which the contractor must comply with that request; and

(b) further information or clarification of information where appropriate.

otherwise unusual.

(a) Processing, assessing and monitoring the information received from the contractor in respect of the forms completed pursuant to paragraph 38 of Schedule 3 to the GDS Contracts Regulations for the purposes of analysing the number of orthodontic courses of treatment which have not been completed and the reasons for incomplete treatments.

(b) Providing reports to the Board on the information received from the contractor pursuant to paragraph 8(2) of Schedule 1 to the GDS Contracts Regulations which shall include an assessment of the information sufficient to enable the Board to determine whether the number of courses of treatment which are not complete is excessive and whether the reasons given by the contractor are satisfactory.

(c) Providing timely reports to the Board in respect of the information received from the contractor pursuant to paragraph 8(2) of Schedule 1 to the GDS Contracts Regulations which the Authority considers might be evidence of a breach of contract, an unlawful activity or an irregularity or which is otherwise unusual.

**SCHEDULE 3 (other contractual terms)**

7. Paragraph 8 (completion of courses of treatment).

Requesting and receiving from the contractor—

(a) the reasons for failure to complete one or more courses of treatment; and

(b) further information or clarification of information where appropriate.

(a) Processing, assessing and monitoring the information received from the contractor in respect of the forms completed pursuant to paragraph 38 of Schedule 3 to the GDS Contracts Regulations for the purposes of analysing the number of courses of treatment which have not been completed and the reasons for incomplete treatments.

(b) Providing reports to the Board in respect of the information received from the

8. Paragraph 35 (provision of and access to information).	<p>(a) Requesting and receiving from the contractor the information specified in paragraph 35(2) and requesting further information if appropriate.</p> <p>(b) Authorising persons in writing to request and receive such information.</p>	<p>contractor relating to incomplete courses of treatment which must include an assessment of the information to enable the Board to determine whether the number of courses of treatment which are not complete is excessive and whether the reasons given by the contractor are satisfactory.</p> <p>(c) Providing timely reports to the Board in respect of the information received from the contractor relating to incomplete courses of treatment which the Authority considers might be evidence of a breach of contract, an unlawful activity or an irregularity or which is otherwise unusual.</p> <p>(a) Processing, assessing and monitoring the information received pursuant to paragraph 35(2) of Schedule 3 to the GDS Contracts Regulations, in particular for the purposes of the prevention, investigation and detection of fraud or other unlawful activities.</p> <p>(b) Preparing and sending to the Board the information received pursuant to paragraph 35(2) of Schedule 3 to the GDS Contracts Regulations in the Board's required format.</p> <p>(c) Providing timely reports to the Board in respect of the information received pursuant to paragraph 35(2) of Schedule 3 to the GDS Contracts Regulations which the Authority considers might be evidence of a breach of contract, an unlawful activity or an irregularity or which is otherwise unusual.</p>
9. Paragraph 37(1) and (3) (inquiries about referrals and appointment of qualified dental practitioner).	<p>(a) Making inquiries (oral or in writing) to the contractor (and receiving responses) concerning—</p> <p>(i) the referral by or on behalf of the contractor of any patient for any other services provided under the 2006 Act, or</p> <p>(ii) the considerations by</p>	<p>(a) Processing, assessing and monitoring the information received pursuant to paragraph 37(1) of Schedule 3 to the GDS Contracts Regulations, in particular for the purposes of the prevention, investigation and detection of fraud or other unlawful activities.</p>

which the contractor makes such referrals or provides for them to be made on its behalf.

(b) Appointing qualified dental practitioners to assist it in the exercise of its functions under this provision.

(b) Providing the Board with regular reports, based on the information received pursuant to paragraph 37(1) of Schedule 3 to the GDS Contracts Regulations and other relevant information available to the Authority, concerning referrals (and which may include matters relating to prescription forms and the issue of such forms) to enable the Board to discharge its functions under the 2006 Act.

(c) Providing the contractor with regular reports, based on the information received pursuant to paragraph 37(1) of Schedule 3 to the GDS Contracts Regulations and other relevant information available to the Authority, concerning referrals (and which may include matters relating to prescription forms and the issue of such forms) to assist it in the discharge of its obligations under the GDS Contract.

(d) Providing timely reports to the Board in respect of the information received pursuant to paragraph 37(1) of Schedule 3 to the GDS Contracts Regulations which the Authority considers might be evidence of a breach of contract, an unlawful activity or an irregularity or which is otherwise unusual.

10. Paragraph 38 (notification of a course of treatment, orthodontic course of treatment etc.).

(a) Receiving from the contractor completed forms issued by the Board in accordance with paragraph 38.

(b) Requesting and receiving from the contractor further information relating to incomplete or wrongly completed forms where appropriate.

(a) Processing, assessing and monitoring the information received pursuant to paragraph 38 of Schedule 3 to the GDS Contracts Regulations, in particular for the purposes of—

(i) monitoring the performance of the contractor, and  
(ii) the prevention, investigation and detection of fraud or other unlawful activities.

(b) Providing monthly reports to the Board and the contractor based on the information provided pursuant to

paragraph 38 of Schedule 3 to the GDS Contracts Regulations and setting out in particular—

(i) the number of units of dental and orthodontic activity provided by the contractor during the month and the current total for the year,

(ii) information relating to courses of treatment and case assessments provided by the contractor,

(iii) information relating to patient charges, in particular the total amount levied and the number and type of patient charge declarations submitted, and

(iv) information regarding patients treated, in particular the number of patients and their age and sex.

(c) Providing timely reports to the Board in respect of the information received pursuant to paragraph 38 of Schedule 3 to the GDS Contracts Regulations which the Authority considers might be evidence of a breach of contract, an unlawful activity or an irregularity or which is otherwise unusual.

11. Paragraph 39(1) (annual report).

Providing an annual report to the Board being an amalgamation of the information provided in the monthly reports for the year referred to in entry (b) of column 3, relating to entry 10 in column 1, and which must contain sufficient detailed information to enable the Board to provide an annual report in accordance with paragraph 39(1) of Schedule 3 to the GDS Contracts Regulations.

12. Paragraph 44 (entry and inspection).

Authorising persons in writing to enter and inspect practice premises.

(a) Processing, assessing and monitoring the information and evidence obtained pursuant to paragraph 44 of Schedule 3 to the GDS Contracts Regulations.

(b) Providing a report to the Board based upon the

13. Paragraph 58(3) and regulation 24(3) (mid-year reviews).

information and evidence obtained pursuant to paragraph 44 of Schedule 3 to the GDS Regulations, in particular setting out any information that the Authority considers might be evidence of a breach of contract, an unlawful activity or an irregularity or which is otherwise unusual.

(a) Providing a mid-year report to the Board by 15th October in each year in respect of GDS Contracts that commence on 1st April—

(i) setting out the number of units of dental and orthodontic activity provided by the contractor between 1st April and 30th September, and

(ii) the percentage of the total number of units of dental or orthodontic activity required to be provided during the financial year that the number in paragraph (i) represents.

(b) Providing a mid-year report to the Board by a date notified by the Board in respect of GDS Contracts that do not commence on 1st April—

(i) setting out the number of units of dental and orthodontic activity provided by the contractor in the period specified by the Board in its notification, and

(ii) the percentage of the total number of units of dental or orthodontic activity required to be provided during the financial year that the number in paragraph (i) represents.

14. Paragraph 59 (action following a mid-year review).

Providing the Board with such information as it may require and which the Authority holds as a consequence of its exercise of functions specified in this Schedule, when requested, to enable the Board to make a determination for the purposes of paragraph 59(2) of Schedule 3 to the GDS Contracts Regulations.

**The National Health Service (Personal Dental Services Agreements) Regulations 2005**

15. Regulation 17(1) and (2) (finance).	The making of payments to the contractor which are required to be paid under the PDS Agreement including those made under directions made under section 109.	Providing timely reports to the Board in respect of any information which the Authority discovers in the course of or as a consequence of making payments to the contractor under the PDS Agreement, including under the directions made under section 109 (or as a result of ancillary, related or supplemental functions), and which it considers might be evidence of a breach of contract, an unlawful activity or an irregularity or which is otherwise unusual.
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**SCHEDULE 1 (additional services)**

16. Paragraph 8(2) and (3) (completion of orthodontic courses of treatment).	<p>Requesting and receiving from the contractor—</p> <p>(a) the reasons for failure to complete one or more orthodontic courses of treatment and determining the period within which the contractor must comply with that request; and</p> <p>(b) further information or clarification of information where appropriate.</p>	<p>(a) Processing, assessing and monitoring the information received from the contractor in respect of the forms completed pursuant to paragraph 39 of Schedule 3 to the PDS Agreements Regulations for the purpose of analysing the number of orthodontic courses of treatment which have not been completed and the reasons for incomplete treatments.</p> <p>(b) Providing reports to the Board on the information received from the contractor pursuant to paragraph 8(2) of Schedule 1 to the PDS Agreements Regulations which shall include an assessment of the information sufficient to enable the Board to determine whether the number of courses of treatment which are not complete is excessive and whether the reasons given by the contractor are satisfactory.</p> <p>(c) Providing timely reports to the Board in respect of the information received from the contractor pursuant to paragraph 8(2) of Schedule 1 to the PDS Agreements Regulations which the Authority considers might be evidence of a breach of contract, an unlawful activity or an irregularity or which is</p>
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**SCHEDULE 3 (other contractual terms)**

17. Paragraph 9 (completion of courses of treatment).

Requesting and receiving from the contractor—

- (a) the reasons for failure to complete one or more courses of treatment; and
- (b) further information or clarification of information where appropriate.

otherwise unusual.

(a) Processing, assessing and monitoring the information received from the contractor in respect of the forms completed pursuant to paragraph 39 of Schedule 3 to the PDS Agreements Regulations for the purpose of analysing the number of courses of treatment which have not been completed and the reasons for incomplete treatments.

(b) Providing reports to the Board in respect of the information received from the contractor relating to incomplete courses of treatment which shall include an assessment of the information sufficient to enable the Board to determine whether the number of courses of treatment which are not complete is excessive and whether the reasons given by the contractor are satisfactory.

(c) Providing timely reports to the Board in respect of the information received from the contractor relating to incomplete courses of treatment which the Authority considers might be evidence of a breach of contract, an unlawful activity or an irregularity or which is otherwise unusual.

18. Paragraph 36 (provision of and access to information).

(a) Requesting and receiving from the contractor the information specified in paragraph 36(2) and requesting further information if appropriate.

(b) Authorising persons in writing to request and receive such information.

(a) Processing, assessing and monitoring the information received pursuant to paragraph 36(2) of Schedule 3 to the PDS Agreements Regulations, in particular for the purposes of the prevention, investigation and detection of fraud or other unlawful activities.

(b) Preparing and sending to the Board the information received pursuant to paragraph 36(2) of Schedule 3 to the PDS Agreements Regulations, in the Board's required format.

(c) Providing timely reports to the Board in respect of the information received pursuant

<p>19. Paragraph 38(1) and (3) (inquiries about referrals and appointment of qualified dental practitioner).</p>	<p>(a) Making inquiries (oral or in writing) to the contractor (and receiving responses) concerning—</p> <p>(i) the referral by or on behalf of the contractor of any patient for any other services provided under the 2006 Act, or</p> <p>(ii) the considerations by which the contractor makes such referrals or provides for them to be made on its behalf.</p> <p>(b) Appointing qualified dental practitioners to assist it in the exercise of its functions under this provision.</p>	<p>to paragraph 36(2) of Schedule 3 to the PDS Agreements Regulations which the Authority considers might be evidence of a breach of contract, an unlawful activity or an irregularity or which is otherwise unusual.</p> <p>(a) Processing, assessing and monitoring the information received pursuant to paragraph 38(1) of Schedule 3 to the PDS Agreements Regulations, in particular for the purposes of the prevention, investigation and detection of fraud or other unlawful activities.</p> <p>(b) Providing the Board with regular reports, based on the information received pursuant to paragraph 38(1) of Schedule 3 to the PDS Agreements Regulations and other relevant information available to the Authority, concerning referrals (and which may include matters relating to prescription forms and the issue of such forms) to enable the Board to discharge its functions under the 2006 Act.</p> <p>(c) Providing the contractor with regular reports, based on the information received pursuant to paragraph 38(1) of Schedule 3 to the PDS Agreements Regulations and other relevant information available to the Authority, concerning referrals (and which may include matters relating to prescription forms) to assist it in the discharge of its obligations under the PDS Agreement.</p> <p>(d) Providing timely reports to the Board in respect of the information received pursuant to paragraph 38(1) of Schedule 3 to the PDS Agreements Regulations which the Authority considers might be evidence of a breach of contract, an unlawful activity or an irregularity or which is otherwise unusual.</p> <p>(a) Processing, assessing and</p>
<p>20. Paragraph 39 (notification</p>	<p>(a) Receiving from the</p>	

of a course of treatment, orthodontic course of treatment etc.).

contractor completed forms issued by the Board in accordance with paragraph 39. (b) Requesting and receiving from the contractor further information relating to incomplete or wrongly completed forms where appropriate.

monitoring the information received pursuant to paragraph 39 of Schedule 3 to the PDS Agreements Regulations, in particular for the purposes of—

(i) monitoring the performance of the contractor, and  
(ii) the prevention, investigation and detection of fraud or other unlawful activities.

(b) Providing monthly reports to the Board and the contractor based on the information provided pursuant to paragraph 39 of Schedule 3 to the PDS Agreements Regulations and setting out in particular—

(i) the number of units of dental and orthodontic activity provided by the contractor during the month and the current total for the year,

(ii) information relating to courses of treatment and case assessments provided by the contractor,

(iii) information relating to patient charges, in particular the total amount levied and the number and type of patient charge declarations submitted, and

(iv) information regarding patients treated, in particular the number of patients and their age and sex.

(c) Providing timely reports to the Board in respect of the information received pursuant to paragraph 39 of Schedule 3 to the PDS Agreements Regulations which the Authority considers might be evidence of a breach of contract, an unlawful activity or an irregularity or which is otherwise unusual.

Providing an annual report to the Board being an amalgamation of the information provided in the monthly reports for the year referred to in entry (b) of column 2, relating to entry 20

21. Paragraph 40(1) (annual report).

22. Paragraph 44 (entry and inspection).	Authorising persons in writing to enter and inspect practice premises.	of column 1, and which must contain sufficient detailed information to enable the Board to provide an annual report in accordance with paragraph 40(1) of Schedule 3 to the PDS Agreements Regulations.
23. Paragraph 58(3) and regulation 20(3) (mid-year reviews).		<p>(a) Processing, assessing and monitoring the information and evidence obtained pursuant to paragraph 44 of Schedule 3 to the PDS Agreements Regulations.</p> <p>(b) Providing a report to the Board based upon the information and evidence obtained pursuant to paragraph 44 of Schedule 3 to the PDS Agreements Regulations, in particular setting out any information that the Authority considers might be evidence of a breach of contract, an unlawful activity or an irregularity or which is otherwise unusual.</p> <p>(a) Providing a mid-year report to the Board by 15th October in each year in respect of PDS Agreements that commence on 1st April—</p> <p>(i) setting out the number of units of dental and orthodontic activity provided by the contractor between 1st April and 30th September, and</p> <p>(ii) the percentage of the total number of units of dental or orthodontic activity required to be provided during the financial year that the number in paragraph (i) represents.</p> <p>(b) Providing a mid-year report to the Board by a date notified by the Board in respect of PDS Agreements that do not commence on 1st April—</p> <p>(i) setting out the number of units of dental and orthodontic activity provided by the contractor in the period specified by the Board in its notification, and</p> <p>(ii) the percentage of the total number of units of dental or</p>

24. Paragraph 59 (action following mid-year review).

orthodontic activity required to be provided during the financial year that the number in paragraph (i) represents.

Providing the Board with such information as it may require and which the Authority holds as a consequence of the exercise of functions specified in this Schedule, when requested, to enable the Board to make a determination for the purposes of paragraph 59(2) of Schedule 3 to the PDS Agreements Regulations.

**The National Health Service (Dental Charges) Regulations 2005(a)**

25. Regulation 7 (conditions for exemption under the Act).

(a) Requiring the supply of, and receiving, specified and non-specified evidence.  
(b) Inspection, consideration of non-specified evidence in respect of a person falling within a specified category and determining whether such evidence is acceptable.

(a) Processing, assessing and monitoring the information received pursuant to section 177 of the 2006 Act.  
(b) Providing timely reports to the Board in respect of the information received pursuant to section 177 of the 2006 Act which the Authority considers might be evidence of a breach of contract, an unlawful activity or an irregularity or which is otherwise unusual.

**National Health Service Pension Scheme Regulations 1995(b)**

26. Regulations D1 and D2 (contributions by members and by employing authorities), as applied by virtue of regulation R1 (practitioners and trainee practitioners) with the modifications set out in Schedule 2 (medical and dental practitioners).

(a) The making of deductions of members' contributions of practitioners from payments made under a GDS Contract or PDS Agreement.  
(b) The paying of those members' contributions that the employing authority has deducted to the Secretary of State.  
(c) The receiving of members' contributions of foundation trainees from the holder of a GDS Contract or PDS Agreement, and the paying of those member's contributions to the Secretary of State.  
(d) The making of the contributions (including additional contributions) to the scheme that the employing

(a) The making of a determination of whether or not a notice pursuant to paragraph 23 (accounts and actuarial reports) of Schedule 2 is invalid.  
(b) Providing timely reports to the Secretary of State or, where appropriate, the employing authority, in respect of any information which it discovers in the course of or as a consequence of performing functions under the Regulations, including regulation U3(5) (or as a result of ancillary, related or supplemental functions), and which it considers might be evidence of a breach of contract, an unlawful activity

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(a) S.I. 2005/3477; as amended by S.I. 2006/1837, 2007/544, 2008/547, 2009/407, 2011/519 and 2012/502.

(b) S.I. 1995/300. Relevant amendments are made by S.I. 1998/666 and 2216, 2000/605, 2002/561 and 2469, 2003/631 and 2322, 2004/665, 2005/661 and 3074, 2006/600 and 2919, 2007/3280, 2008/654 and 2263, 2009/381 and 2446, 2010/492 and 1634, 2011/2586 and 2012/610.

authority must make, which relate to those members' contributions of practitioners and foundation trainees, and the paying of those employing authority contributions to the Secretary of State.

(e) The functions of the employing authority of—

- (i) giving and receiving notices referred to in paragraph 23(4) to (7) (accounts and actuarial reports) of Schedule 2 (medical and dental practitioners), including agreeing such other period for the reception of such notices as permitted, accepting replacement notices where a material particular has changed and estimating and recording pensionable earnings in respect of invalid reconciliation notices,
- (ii) the provision to the Secretary of State of the statements referred to in paragraph 23(12) and (13) of Schedule 2 that the employing authority is required to provide, and
- (iii) the recovery of the amount of unpaid contributions where an employing authority has ceased to exist in accordance with sub-paragraph (17A) of Schedule 2.

or an irregularity or which is otherwise unusual.

(c) The determination of such other period as may be permitted in accordance with paragraph 23 for the issue and return of the notices referred to in sub-paragraphs (5) to (7) of that paragraph.

27. Regulation U3(5) (accounts and actuarial reports).

The keeping of records in respect of contributions deducted and made, and the provision of a statement to the Secretary of State in respect of those matters.

**National Health Service Pension Scheme Regulations 2008(a)**

28 Chapter 3.C (contributions)

(a) The making of deductions of members' contributions of practitioners from payments made under a GDS Contract or PDS Agreement.

Providing timely reports to the Secretary of State or, where appropriate, the employing authority, in respect of any information which it discovers in the course of or as a

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(a) S.I. 2008/653; as amended by S.I. 2008/2263, 2009/381, 1298 and 2446, 2010/234, 478, 492 and 1634, 2011/591 and 2586, 2012/610, and 1909.

	<p>(b) The paying of those members' contributions that the employing authority has deducted to the Secretary of State.</p> <p>(c) The receiving of members' contributions of foundation trainees from the holder of a GDS Contract or PDS Agreement, and the paying of those members' contributions to the Secretary of State.</p> <p>(d) The making of the contributions (including additional contributions) to the scheme that the employing authority must make, which relate to those members' contributions of practitioners and foundation trainees, and the paying of those employing authority contributions to the Secretary of State.</p> <p>(e) The recovery of the amount of unpaid contributions where an employing authority has ceased to exist in accordance with paragraph (19A) of regulation 3.C.5 (payment of contributions)(a).</p>	<p>consequence of performing functions under the Regulations, including regulation 3.J.14(14) (employing authority and certain member record keeping and contribution estimates) (or as a result of ancillary, related or supplemental functions), and which it considers might be evidence of a breach of contract, an unlawful activity or an irregularity or which is otherwise unusual.</p>
<p>29. Regulation 3.J.14 (employing authority and certain member record keeping and contribution estimates).</p>	<p>(a) Giving and receiving notices referred to in regulation 3.J.14 including agreeing such other period for the reception of such notices as permitted, accepting replacement notices where a material particular has changed and estimating and recording pensionable earnings in respect of invalid reconciliation notices.</p> <p>(b) The provision to the Secretary of State of the statements referred to in paragraphs (11) and (12) of regulation 3.J.14 the employing authority is required to provide.</p> <p>(c) The keeping of records in respect of contributions deducted and made, and the provision of a statement to the Secretary of State in respect of</p>	<p>(a) The making of a determination of whether or not a notice under regulation 3.J.14 is invalid.</p> <p>(b) The determination of such other period as may be permitted in accordance with regulation 3.J.14 for the issue and return of the notices referred to in paragraphs (4) to (6) of that regulation.</p>

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(a) Paragraph 19A was inserted by S.I.2013/413.

those matters.

**The National Health Service Pension Scheme (Additional Voluntary Contributions) Regulations 2000(a)**

30. Regulation 4 (payment and amount of additional voluntary contributions)	(a) The making of deductions from payments made under a GDS Contract or PDS Agreement in respect of money purchase additional voluntary contributions payable to a provider of a free-standing additional voluntary contributions scheme and owed by a practitioner member of the NHS pension scheme. (b) The remission of those contributions to the Secretary of State (in practice, they are sent directly to the provider of the free-standing additional voluntary contributions scheme).	Providing timely reports to, as appropriate, the Secretary of State, the provider of the free-standing additional voluntary contributions scheme or the employing authority, in respect of any information which it discovers in the course of or as a consequence of performing functions under the Regulations, and which it considers might be evidence of a breach of contract, an unlawful activity or an irregularity or which is otherwise unusual.
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**EXPLANATORY NOTE**

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

These Regulations, relating to the provision of dental services in England, provide for functions of the National Health Service Commissioning Board (“the Board”) established by section 1H of the National Health Service Act 2006, to be exercised by the NHS Business Services Authority (“the Authority”).

Regulation 2(1) and column 2 of the Schedule set out the functions which are to be exercised by the Authority in respect of the provisions specified in column 1.

Regulation 2(2) and column 3 of the Schedule set out the functions which are ancillary, related or supplemental to the functions set out in column 2 of the Schedule and which are to be exercised by the Authority.

Regulation 2(3) makes provision limiting the exercise of the function of the Board in respect of making payments under Directions under section 103(1) or 109(4) of the National Health Service Act 2006 except in a case where the Authority is unable to exercise the function.

Regulation 2(3) to (7) makes provision in respect of obligations, rights or liabilities arising from a GDS Contract or PDS Agreement in respect of which the functions specified in these Regulations are exercisable by the Authority.

Regulations 3 and 4 make transitional provision in respect of the transfer of GDS contracts and PDS agreements from Primary Care Trusts, in the case of GDS contracts, and from Primary Care Trusts and Strategic Health Authorities (collectively referred to in these Regulations in relation to PDS agreements as “the Relevant Body”), in the case of PDS agreements, to the Board on 1st April 2013, as a consequence of the abolition of Strategic Health Authorities and Primary Care Trusts upon the coming into force of sections 33 and 34 of the Health and Social Care Act 2012 (c.7).

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(a) S.I. 2000/619; as amended by S.I. 2001/1428 and 3649, 2002/610, 2005/3074, 2006/600, 2007/3280, 2008/655, 2009/2446, 2010/492, and 2011/ 2586.

Regulation 5 revokes the Functions of Primary Care Trusts and Strategic Health Authorities and the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Primary Dental Services) (England) Regulations 2006, and regulation 5 of the National Health Service (Primary Dental Services) (Miscellaneous Amendments) Regulations 2012 which amends these Regulations.

A full Impact Assessment has not been produced for this instrument as no impact on the private or voluntary sector is foreseen.

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