



# Dentists Act 1984

## 1984 CHAPTER 24

### PART III

#### THE DENTAL PROFESSION

##### *Professional conduct and fitness to practise*

#### **27 Erasure or suspension of registration for crime or misconduct**

- (1) Where the Professional Conduct Committee are satisfied that a registered dentist (whether before or after registration)—
  - (a) has been convicted in the United Kingdom of a criminal offence or has been convicted elsewhere of an offence which, if committed in England and Wales, would constitute a criminal offence, or
  - (b) has been guilty of serious professional misconduct,they may, if they think fit, determine that his name shall be erased from the register or that his registration in it shall be suspended for such period not exceeding twelve months as may be specified in their determination.
- (2) It shall be the function of the Preliminary Proceedings Committee to decide whether the case of a person alleged to have been convicted as mentioned in subsection (1) above or to have been guilty of any such misconduct as is there mentioned ought to be referred to the Professional Conduct Committee to be dealt with by them in accordance with this section.
- (3) If after the Preliminary Proceedings Committee have referred the case of any such person to the Professional Conduct Committee, but before the Professional Conduct Committee have opened their inquiry into the case, it appears to the Professional Conduct Committee that the question whether an inquiry should be held needs further consideration, they may refer the case back to the Preliminary Proceedings Committee for consideration of that question but, subject to that, it shall be the duty of the Professional Conduct Committee to hold an inquiry into any case referred to them under this section.

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- (4) Where the Professional Conduct Committee determine under this section that a person's name shall be erased from the register or that his registration shall be suspended, the registrar shall serve on him a notification of the determination and of his right to appeal against it under section 29 below.
- (5) Where a dental authority in exercise of a power conferred by law strike the name of a person who is a registered dentist off a list of their graduates or licentiates in dentistry and notify to the Council the fact of the striking off—
  - (a) the registrar shall retain a record of that fact; and
  - (b) if the dental authority notify to the Council the findings of fact on which the decision to strike off the name was based, then for the purpose of any inquiry under this Act as to whether that person has been guilty of serious professional misconduct the findings may, if the body holding the inquiry think fit, be treated as conclusive of the facts found.

## **28 Powers of Health Committee**

- (1) Where the fitness of a registered dentist to practise is judged by the Health Committee to be seriously impaired by reason of his physical or mental condition, the Committee may, if they think fit, direct—
  - (a) that his registration in the register shall be suspended for such period not exceeding twelve months as may be specified in the direction; or
  - (b) that his registration shall be conditional on his compliance, during such period not exceeding three years as may be specified in the direction, with such requirements so specified as the Committee think fit to impose for the protection of the public or in his own interests.
- (2) Where a registered dentist whose registration is for the time being conditional on his compliance with requirements imposed under this section is judged by the Health Committee to have failed to comply with any of those requirements, the Committee may, if they think fit, direct that his registration in the register shall be suspended during such period not exceeding twelve months as may be specified in the direction.
- (3) Where the Health Committee have given a direction for suspension under subsection (1)(a) or (2) above, they may subsequently—
  - (a) direct that the current period of suspension shall be extended for such further period from the time when it would otherwise expire as may be specified in the direction;
  - (b) direct that the registration of the person whose registration is suspended shall, as from the expiry of the current period of suspension, be conditional on his compliance, during such period not exceeding three years as may be specified in the direction, with such requirements so specified as the Committee have power to impose under subsection (1)(b) above ;but the Committee shall not extend any period of suspension under this section by more than twelve months at a time.
- (4) Where the Health Committee have given a direction for conditional registration under this section, the Committee may subsequently revoke that direction or do one or more of the following things, namely—
  - (a) revoke any of the requirements imposed by that direction ;
  - (b) direct that any of those requirements shall be varied in such manner as may be specified in the direction ;

- (c) direct that the current period of conditional registration shall be extended for such further period from the time when it would otherwise expire as may be specified in the direction;

but the Committee shall not extend any period of conditional registration under this section by more than twelve months at a time.

- (5) Where the Health Committee give any direction under this section the registrar shall forthwith serve on the person to whom it applies a notification of the direction and of his right to appeal against it under section 29 below; and where the Committee under subsection (4) above revoke any direction or requirement of a direction the registrar shall forthwith serve on the person to whom the direction applied or, as the case may be, applies a notification of the revocation.

## **29 Appeals**

- (1) Where a person is notified—
  - (a) under subsection (4) of section 27 above that a determination has been made in respect of him under that section, or
  - (b) under subsection (5) of section 28 above that a direction has been given in respect of him under that section,he may, within twenty-eight days from the service of the notification, appeal to Her Majesty in Council against that determination or, on any question of law, against that direction.
- (2) An appeal under this section from the Professional Conduct Committee or the Health Committee shall be made in accordance with such rules as Her Majesty may by Order in Council provide in relation to that Committee for the purposes of this section ; and the Judicial Committee Act 1833 shall apply in relation to each of those Committees as it applies in relation to a court falling within section 3 of that Act (appeals to Her Majesty in Council to be referred to the Judicial Committee of the Privy Council).
- (3) Without prejudice to the application of that Act, on an appeal under this section the Judicial Committee may, in their report, recommend to Her Majesty in Council—
  - (a) that the appeal be dismissed;
  - (b) that the appeal be allowed and that the determination or direction appealed against be quashed ;
  - (c) that such other determination or direction as the Professional Conduct Committee or (as the case may be) the Health Committee could have made or given be substituted for the determination or direction appealed against; or
  - (d) that the case be remitted to the Professional Conduct Committee or the Health Committee to dispose of the case under section 27 or 28 above in accordance with the directions of the Judicial Committee.
- (4) The Council may appear as respondent on any appeal under this section ; and for the purpose of enabling directions to be given as to the costs of any such appeal the Council shall be deemed to be a party to it, whether they appear on the hearing of the appeal or not.

**30 Time when determinations and directions normally take effect and orders for immediate suspension**

- (1) Where no appeal is brought against any determination or direction under section 27 or 28 above within the period mentioned in section 29(1) above, the determination or direction shall take effect at the expiry of that period.
- (2) Where an appeal is so brought against any such determination or direction, then (subject to section 31(2) below) the determination or direction shall not take effect until such time as the appeal is dismissed or withdrawn or is struck out for want of prosecution.
- (3) If—
  - (a) the Professional Conduct Committee on making any determination in respect of a person under section 27 above, or
  - (b) the Health Committee on giving a direction for suspension in respect of a person under section 28(1) or (2) above,
 are satisfied that it is necessary for the protection of members of the public, or that it would be in the best interests of that person, to do so, they may order that his registration in the register shall be suspended forthwith; and in that event his registration in the register shall be suspended by virtue of this subsection from the time when the order is made until the time when the period for bringing an appeal against the said determination or direction under section 29 above expires or, if such an appeal is brought, the appeal is determined or withdrawn or is struck out for want of prosecution.
- (4) Where the Professional Conduct Committee or the Health Committee make an order under subsection (3) above the registrar shall forthwith serve on the person to whom it applies a notification of the order and of his right to make an application under subsection (6) below.
- (5) If when an order is made under subsection (3) above the person to whom it applies is neither present nor represented at the proceedings, that subsection shall have effect as if, for the reference to the time when the order is made, there were substituted a reference to the time when notification of the order is served under subsection (4) above.
- (6) A person whose registration in the register has been suspended under subsection (3) above may apply to the court for an order terminating the suspension, and the decision of the court on any such application shall be final.
- (7) In subsection (6) above " the court"—
  - (a) in the case of a person whose address in the register is in Scotland, means the Court of Session;
  - (b) in the case of a person whose address in the register is in Northern Ireland, means the High Court in Northern Ireland; and
  - (c) in the case of any other person, means the High Court in England and Wales.

**31 Special provisions where directions replace, or extend periods under, previous directions**

- (1) Where any such direction as is mentioned in section 28(2), (3) or (4)(c) above is given while a person's registration is subject to conditions or suspended by virtue of a direction under this Act, his registration shall continue to be conditional or suspended

throughout any period which may intervene between the time when (but for this subsection) his registration would cease to be conditional or suspended, as the case may be, and the time when—

- (a) the period for bringing an appeal against the direction under section 29 above expires ; or
  - (b) if such an appeal is brought, the appeal is determined or withdrawn or is struck out for want of prosecution.
- (2) If, however, on the determination of any appeal under section 29 above any such direction as is mentioned in section 28(2), (3) or (4)(c) above takes effect after the time when (but for subsection (1) above) the current period of conditional registration or suspension referred to in the said provision of section 28 would have ended, the period for which that direction is to have effect shall be treated as having started to run at that time.

## **32 Orders for interim suspension**

- (1) Where the Preliminary Proceedings Committee (" the Committee ")—
  - (a) decide that the case of a person who is alleged to have been convicted as mentioned in section 27(1) above, or to have been guilty of any such misconduct as is there mentioned, ought to be referred to the Professional Conduct Committee under that section, and
  - (b) are satisfied that it is necessary for the protection of members of the public to make an order under this section in respect of that person,they may order that his registration in the register shall be suspended in accordance with the following provisions of this section pending the determination of his case by the Professional Conduct Committee.
- (2) The Committee may make any such order notwithstanding—
  - (a) in the case of a person alleged to have been convicted as aforesaid, that any proceedings by way of appeal are pending in respect of the conviction in question; or
  - (b) in the case of a person alleged to have been guilty of any such misconduct as aforesaid, that any criminal charge has been, or might be, brought in respect of the alleged misconduct.
- (3) No order shall be made under this section in respect of a person unless he has been afforded an opportunity of appearing before the Committee and of being heard on the question whether such an order should be made in his case; and for the purposes of this subsection a person may be represented before the Committee by counsel or a solicitor, or (if rules under paragraph 8 of Schedule 1 to this Act so provide and he so elects) by a person of such other description as may be specified in the rules.
- (4) Where the Committee make an order under this section the registrar shall forthwith serve on the person to whom it applies a notification of the order and of his right to make an application for the termination of the order under subsection (8) below; and the registration of that person in the register shall be suspended by virtue of this section from the time when the notification is so served until such time as the order is revoked under subsection (5) or (6) below.
- (5) Any order under this section shall be reviewed by the Committee not later than three months after the date of its making and subsequently at intervals of not more than three months ; and where the Committee on any such review are satisfied that the

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continuation in force of the order is not necessary for the protection of members of the public they shall revoke the order.

- (6) Where the case of a person to whom an order under this section applies is determined by the Professional Conduct Committee under section 27 above, the Professional Conduct Committee shall revoke the order either forthwith or, if they make an order for immediate suspension taking effect under section 30(5) above, as from the time when that order so takes effect.
- (7) Where an order under this section is revoked under subsection (5) or (6) above the registrar shall forthwith serve on the person concerned a notification of the revocation of the order.
- (8) Subsections (6) and (7) of section 30 above shall have effect in relation to an order under this section as they have effect in relation to an order of the Professional Conduct Committee under subsection (3) of that section.

### **33 Supplementary provisions relating to professional conduct and health cases**

- (1) While a person's registration in the register is suspended by virtue of a determination, direction or order under this Part of this Act, he shall be treated as not being registered in the register, notwithstanding that his name still appears in it.
- (2) Schedule 3 to this Act (which contains supplementary provisions relating to professional conduct and health cases) shall have effect.

### **34 Restoration of name erased under s. 27**

- (1) Where a person's name has been erased from the register in consequence of a determination under section 27 above, the name of that person shall not again be entered in the register except by direction of the Council; and the Council may, subject to subsection (2) below, direct that the name of that person shall be restored to the register.
- (2) An application for the restoration of a name to the register shall not be made to the Council—
  - (a) within ten months from the date of erasure, or
  - (b) within ten months from a previous application.
- (3) The Council shall refer any application under this section to the Professional Conduct Committee for determination by them.