



# Dentists Act 1984

## 1984 CHAPTER 24

### PART IV

#### RESTRICTIONS ON PRACTICE OF DENTISTRY AND ON CARRYING ON BUSINESS OF DENTISTRY

##### *Restrictions on carrying on the business of dentistry*

#### **40 Definition of business of dentistry.**

- (1) For the purposes of this Act a person shall be treated as carrying on the business of dentistry if, and only if, he or a partnership of which he is a member receives payment for services rendered in the course of the practice of dentistry by him or by a partner of his, or by an employee of his or of all or any of the partners.
- (2) Notwithstanding subsection (1) above, the receipt of payments—
  - (a) by an authority providing national health services, or
  - [<sup>F1</sup>(ab) by a person (other than one falling within paragraph (a) above) providing personal dental services under section 28C of the National Health Service Act 1977 <sup>F2</sup> or section 17C of the National Health Service (Scotland) Act 1978 <sup>F3</sup>, or]
  - [<sup>F4</sup>(ac) by a person (other than one falling within paragraph (a) above) providing personal dental services under Article 15B of the Health and Personal Social Services (Northern Ireland) Order 1972 <sup>F5</sup>, or]
  - (b) by a person providing dental treatment for his employees without a view to profit, or
  - (c) by a person providing dental treatment without a view to profit dental treatment without a view under conditions approved by the Secretary of State or the Department of Health and Social Services for Northern Ireland,shall not constitute the carrying on of the business of dentistry for the purposes of this Act.

*Status: Point in time view as at 01/04/2003.*

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#### Textual Amendments

- F1** S. 40(2)(ab) inserted (17.7.1998) by [S.I. 1998/1546](#), [art. 2](#)
- F2** [1977 c.49](#). Section 28C was inserted by the [National Health Service \(Primary Care\) Act 1997 \(c.46\)](#) (“the 1997 Act”), section 21(1).
- F3** [1978 c.29](#). Section 17C was inserted by the 1997 Act, section 21(2).
- F4** S. 40(2)(ac) inserted (1.1.1999) by [S.R. 1998/376](#), [art. 2](#)
- F5** [S.I. 1972/1265 \(N.I. 14\)](#); Article 15B is inserted by Article 21 of [S.I. 1997/1177 \(N.I. 7\)](#)

#### 41 Restriction on individuals.

- (1) Subject to the provisions of this section, an individual who is not a registered dentist or a registered medical practitioner shall not carry on the business of dentistry unless he was engaged in carrying on the business of dentistry on 21st July 1955, and any individual who contravenes this section shall be liable on summary conviction to a fine not exceeding the fifth level on the standard scale.
- (2) The exemption conferred by subsection (1) above on persons who were carrying on the business of dentistry on the date there mentioned shall not extend to any person who has at any time ceased to be a registered dentist in consequence of his name being erased from the register, or his registration in it being suspended, under section 27 above.
- (3) This section shall not operate to prevent a person from carrying on the business of dentistry during any period for which his registration in the register is suspended by virtue of a direction under Part III of this Act or by virtue of an order under section 30(3)(b) or section 32 above and subsections (4) and (6) below shall apply in relation to a person whose registration is so suspended as they apply in relation to a registered dentist.
- (4) Where a registered dentist or registered medical practitioner who died after 3rd July 1956 was at his death carrying on a business or practice constituting the business of dentistry, this section shall not operate to prevent his personal representatives or his widow or any of his children, or trustees on behalf of his widow or any of his children, from carrying on the business of dentistry in continuance of that business or practice during the three years beginning with his death.
- (5) Where a registered dentist or a registered medical practitioner who died before 4th July 1956 was at his death carrying on a business or practice constituting the business of dentistry, this section shall not operate to prevent his widow, or trustees on behalf of his widow, from carrying on the business of dentistry in continuance of that business or practice at any time during her life.
- (6) Where a registered dentist or registered medical practitioner becomes bankrupt at a time when he is carrying on a business or practice constituting the business of dentistry, this section shall not operate to prevent his trustee in bankruptcy, or in Northern Ireland the official assignee, from carrying on the business of dentistry in continuance of that business or practice during the three years beginning with the bankruptcy.

#### 42 Restriction on bodies corporate

- (1) No body corporate, other than one exempted under section 43 below, shall carry on the business of dentistry.

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- (2) Any body corporate contravening this section shall be liable on summary conviction to a fine not exceeding the third level on the standard scale.
- (3) Where a body corporate is convicted of an offence under this section, every director and manager of the body shall, unless he proves that the offence was committed without his knowledge, be guilty of the like offence.

**43 Bodies corporate entitled to carry on business of dentistry.**

- (1) A body corporate may, subject to the following provisions of this Part of this Act, carry on the business of dentistry if—
  - (a) it was carrying on the business of dentistry on 21st July 1955, and
  - (b) it carries on no business other than dentistry or some business ancillary to the business of dentistry, and
  - (c) a majority of the directors are registered dentists, and
  - (d) all its operating staff are either registered dentists or dental auxiliaries.
- (2) Paragraph (a) of subsection (1) above shall not apply—
  - (a) to a society registered under the <sup>M1</sup>Industrial and Provident Societies Act 1965 or the <sup>M2</sup>Industrial and Provident Societies Act (Northern Ireland) 1969, or
  - (b) to a body corporate coming into existence on the reconstruction of a body corporate carrying on business on the date mentioned in that paragraph, or coming into existence on the amalgamation of two or more such bodies.
- (3) Paragraph (b) of subsection (1) above shall not apply to a body corporate which was carrying on the business of dentistry before 28th July 1921 so as to prevent it from carrying on any business which that body was at that date lawfully entitled to carry on.
- (4) Every body corporate carrying on the business of dentistry shall in every year transmit to the registrar a statement in the prescribed form containing the names and addresses of all persons who are its directors or managers or who perform dental operations in connection with its business, and if any such body corporate fails to do so, it shall be deemed to be carrying on the business of dentistry in contravention of the provisions of section 42 above.
- (5) If a body corporate exempted by this section ceases at any time to carry on the business of dentistry, the exemption conferred by this section shall not extend to that body on any subsequent occasion when it carries on the business of dentistry.
- (6) Nothing in this section shall prevent a body corporate from carrying on the business of dentistry in the circumstances mentioned in subsections (4), (5) and (6) of section 41 above, and subsection (4) above shall not apply in those circumstances.
- (7) In this section “prescribed” means prescribed by regulations made by the Council.

**Modifications etc. (not altering text)**

C1 S. 43 applied (with modifications) (30.6.1999) by 1999 c. ii, s. 9

**Marginal Citations**

M1 1965 c. 12.

M2 1969 c. 24. (N.I.).

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#### **44 Withdrawal of privilege from body corporate.**

(1) Where—

- (a) a body corporate has been convicted of an offence under section 42 above, or
- (b) the name of a director of a body corporate has been erased from the register under section 27 above, or
- (c) a director of a body corporate has been convicted under section 38 or 41 above.

the Professional Conduct Committee may, subject to subsection (3) below, direct that the exemption conferred by section 43 above shall cease to extend to that body corporate as from such date as the Committee may specify.

(2) Where—

- (a) the name of a member of the operating staff of a body corporate has been erased from the register under section 27 above, and
- (b) in the opinion of the Professional Conduct Committee the act or omission constituting the offence or serious professional misconduct on account of which his name was erased was instigated or connived at by a director of the body corporate, or, if the act or omission was a continuing act or omission, a director of the body corporate had, or reasonably ought to have had, knowledge of its continuance,

the Committee may, subject to subsection (3) below, direct that the exemption conferred by section 43 above shall cease to extend to that body corporate as from such date as the Committee may specify.

(3) The Professional Conduct Committee shall not take a case into consideration under subsection (1) or (2) above while proceedings by way of appeal are pending which may result in that subsection being rendered inapplicable in that case, nor during the period in which any such proceedings may be brought.

(4) Where the Professional Conduct Committee determine under subsection (1) or (2) above that the exemption conferred by section 43 above shall cease to extend to a body corporate, the Committee shall notify the body corporate of their determination and that body may, within twenty-eight days [<sup>F6</sup>from service] of the notification, [<sup>F7</sup>appeal to the relevant court]—

- (a) in the case of a determination under subsection (1) above, on the ground that, notwithstanding the conviction or (as the case may be) the erasure of the name, the Committee's decision was unjustified;
- (b) in the case of a determination under subsection (2) above, on the ground that the opinion of the Committee as to the matters referred to in paragraph (b) of that subsection was incorrect or that, although that opinion was correct, the Committee's decision was unjustified.

[<sup>F8</sup>(4A) In subsection (4), “the relevant court”—

- (a) where the registered office of the body corporate is in Northern Ireland, means the High Court of Justice in Northern Ireland,
- (b) where the registered office of the body corporate is in Scotland, means the Court of Session,
- (c) where the registered office of the body corporate is in any other place, means the High Court of Justice in England and Wales.]

(5) The provisions of sections 29 and 30(1)

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and (2) above shall, with the necessary modifications, apply for the purposes of subsection (4) above as they apply in relation to an appeal under section 29 against a determination of the Professional Conduct Committee.

- (6) References in this section to the erasure of the name, or to the conviction, of a director of a body corporate include references to the erasure of the name, or to the conviction, of any person who was a director of a body corporate at the time of the offence or misconduct leading to the erasure or conviction.

#### **Textual Amendments**

- F6** Words in s. 44(4) inserted (1.4.2003) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), **ss. 31(3)(a)(i)**, 42(3); S.I. 2003/833, art. 3(a) (with art. 4)
- F7** Words in s. 44(4) substituted (1.4.2003) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), **ss. 31(3)(a)(ii)**, 42(3); S.I. 2003/833, art. 3(a) (with art. 4)
- F8** S. 44(4A) inserted (1.4.2003) by National Health Service Reform and Health Care Professions Act 2002 (c. 17), **ss. 31(3)(b)**, 42(3); S.I. 2003/833, art. 3(a) (with art. 4)

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