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## STATUTORY INSTRUMENTS

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# 2016 No. 1030

## The European Qualifications (Health and Social Care Professions) Regulations 2016

### PART 4

#### DENTISTS AND PROFESSIONS COMPLEMENTARY TO DENTISTRY

##### CHAPTER 1

##### AMENDMENT OF THE DENTISTS ACT 1984

#### Introductory

**46.** The Dentists Act 1984 <sup>M1</sup> is amended in accordance with this Chapter.

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#### Marginal Citations

**M1** c. 24.

#### Amendment of section 15

**47.**—(1) Section 15 (qualification for registration in the dentists register) is amended as follows.

(2) In subsection (1)(ba)(i), for “3(9)(a) or (e)” substitute “ 3(8)(a) or (e) ”.

(3) In subsection (1)(ba)(ii)—

- (a) for “20 to 26” substitute “ 27 to 34 ”;
- (b) for “3(4)” substitute “ 3(5) ”.

#### Amendment of section 29

**48.**—(1) Section 29 (appeals) <sup>M2</sup> is amended as follows.

(2) In subsection (1)(b), omit the “and” at the end.

(3) After subsection (1)(c), insert—

“(d) a decision of the Council under regulation 67 of the General Systems Regulations to send an alert about a person.”.

(4) In subsection (1B) after “(10),” insert “ or regulation 67 of the General Systems Regulations, ”.

(5) In subsection (3)(b), after “against” insert “ or, in the case of an appeal from a decision falling within subsection (1)(d), direct that the alert be withdrawn or amended ”.

(6) In subsection (3)(c), before “the Professional Conduct Committee” insert “ the Council, ”.

(7) In subsection (3)(d), before “the Professional Conduct Committee” insert “ the Council, ”.

#### Marginal Citations

- M2** [Section 29](#) was amended by sections 31 and 37 of, and Schedules 8 and 9 to, the [National Health Service Reform and Health Care Professions Act 2002 \(c.17\)](#) and by [S.I. 2005/2011](#).

#### Amendment of section 36S

- 49.**—(1) Section 36S (appeals) <sup>M3</sup> is amended as follows.
- (2) In subsection (1)(b), omit the “and” at the end.
- (3) After subsection (1)(c), insert—
- “(d) a decision of the Council under regulation 67 of the General Systems Regulations to send an alert about a person.”.
- (4) In subsection (3), after “(10),” insert “or regulation 67 of the General Systems Regulations, ”.
- (5) In subsection (6)(b), after “against” insert “or, in the case of an appeal from a decision falling within subsection (1)(d), direct that the alert be withdrawn or amended ”.
- (6) In subsection (6)(c), before “the Professional Conduct Committee” insert “the Council, ”.
- (7) In subsection (6)(d), before “the Professional Conduct Committee” insert “the Council, ”.

#### Marginal Citations

- M3** [Section 36S](#) was inserted by [S.I. 2005/2011](#).

#### Amendment of section 36Z3

- 50.**—(1) Section 36Z3 (visiting dental care professionals from relevant European States) <sup>M4</sup> is amended as follows.
- (2) In subsection (2), for “8” substitute “12 ”.
- (3) In subsection (5)—
- (a) for “17” substitute “24 ”; and
- (b) for “8” substitute “12 ”.

#### Marginal Citations

- M4** [Section 36Z3](#) was inserted by [S.I. 2007/3101](#).

#### Amendment of section 53

- 51.**—(1) Section 53(1) (interpretation) <sup>M5</sup> is amended as follows.
- (2) For the definition of “the General Systems Regulations”, substitute—
- ““the General Systems Regulations” means the European Union (Recognition of Professional Qualifications) Regulations 2015 (S.I. 2015/2059);”.
- (3) In the appropriate places, insert—
- ““Directive [95/46/EC](#)” means Directive [95/46/EC](#) of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, as amended from time to time;”;

““Directive [2002/58/EC](#)” means Directive [2002/58/EC](#) of the European Parliament and of the Council of 12 July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications), as amended from time to time;”;

““IMI” means the Internal Market Information System, the online, secure messaging system developed by the European Commission;”.

#### Marginal Citations

**M5** [Section 53\(1\)](#) was amended by [S.I. 1996/1496](#), 2005/2011, 2007/3101, 2011/1043 and 2015/806.

### Amendment of Schedule 2

**52.**—(1) Schedule 2 (European dental qualifications) is amended as follows.

(2) In paragraph 1 <sup>M6</sup>—

- (a) the existing wording becomes sub-paragraph (1);
- (b) after sub-paragraph (1), as so renumbered, insert—

“(2) References in this Schedule to article 34 of the Directive are, in relation to training begun on or before 18 January 2016, to article 34 disregarding the amendments made by Directive 2013/55/EU of the European Parliament and of the Council of 20 November 2013.”.

(3) After paragraph 6A <sup>M7</sup> insert—

“**6B.** A medical qualification as a doctor awarded in Spain to a person who began medical training at a university between 1 January 1986 and 31 December 1997 is an appropriate European diploma for the purposes of section 15(1)(b) where that person produces to the registrar a certificate issued by the competent authority in Spain certifying that—

- (a) the person has successfully completed at least three years of study, certified by the competent authority in Spain, as being equivalent to the training referred to in article 34 of the Directive;
- (b) the person has effectively, lawfully and principally practised dentistry in Spain for at least three consecutive years during the five years preceding the date of issue of the certificate; and
- (c) the person is authorised to practise dentistry or is effectively, lawfully and principally engaged in dentistry under the same conditions as a holder of the qualifications listed in relation to Spain in Annex V, point 5.3.2 of the Directive.”.

#### Marginal Citations

**M6** [Paragraph 1](#) was substituted by [S.I. 2007/3101](#).

**M7** [Paragraph 6A](#) was inserted by [S.I. 2003/3148](#) and amended by 2007/3101

### Amendment of Schedule 4

**53.**—(1) Schedule 4 (visiting dentists from relevant European States) <sup>M8</sup> is amended as follows.

- (2) In paragraph 4(b)—
  - (a) for “3(9)(a) or (e)” substitute “ 3(8)(a) or (e) ”;
  - (b) for “14 to 16” substitute “ 19 to 23 ”.
- (3) In paragraph 5—
  - (a) in sub-paragraph (2)(a)—
    - (i) in sub-paragraph (i), omit the “and” at the end;
    - (ii) after sub-paragraph (ii), insert—
      - “(iii) confirms that the practitioner does not have a criminal conviction; and
      - (iv) confirms that the practitioner is not subject to a temporary or final suspension preventing practice as a dentist;”;
  - (b) after sub-paragraph (2)(a), insert—
    - “(aa) a written declaration as to whether the practitioner has the necessary knowledge of English;”;
  - (c) in sub-paragraph (3), after “(2)(a)” insert “ or (aa) ”.
- (4) In paragraph 6(3)—
  - (a) for “3(9)(a) or (e)” substitute “ 3(8)(a) or (e) ”;
  - (b) for “14 to 16” substitute “ 19 to 23 ”.
- (5) In paragraph 8(6), after “home State” insert “ or, if different, a relevant European State in which the practitioner practises or has practised as a dental professional ”.

#### Marginal Citations

**M8** [Schedule 4](#) was substituted by [S.I. 2007/3101](#).

#### Amendment of Schedule 4ZA

**54.**—(1) Schedule 4ZA (Directive 2005/36: functions of the Council under section 36ZA(3)) <sup>M9</sup> is amended as follows.

- (2) Before the entry relating to article 7(2)(b) insert—

“Article 4f	Considering applications for partial access to the dental professions under regulations 10 and 11 of the General Systems Regulations.”
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- (3) In the entry relating to article 8(1)—
  - (i) for “Receiving”, substitute “ In the event of justified doubts, receiving ”; and
  - (ii) after paragraph (c), insert—
    - “Receiving information from, or providing information to, other competent authorities in relation to a person's training courses to the extent necessary to assess substantial differences likely to be harmful to public health and safety.”.
- (4) After the entry relating to article 50(3), insert—

“Article 50(3a)	In the event of justified doubts, seeking confirmation from, or providing confirmation to, other competent authorities of the fact that the applicant is not suspended or prohibited from the pursuit of the dental professions as a result of serious professional
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	misconduct or conviction of criminal offences relating to the pursuit of any of the applicant's professional activities.
Article 50(3b)	Ensuring that the exchange of information under article 50 of the Directive with other competent authorities takes place through the IMI.”

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(5) In the entry relating to article 56(2), after paragraph (c) insert—

“Ensuring that the processing of personal data for the purposes of the exchange of information in accordance with article 56(2) of the Directive is carried out in accordance with Directive [95/46/EC](#) and Directive [2002/58/EC](#) and through the IMI.”.

(6) After the entry relating to article 56(2), insert—

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“Article 56(2a)	Ensuring that the exchange of information carried out in accordance with article 56(2) of the Directive takes place through the IMI.
Article 56a (1) and (2)	Informing all other competent authorities, by way of an alert through the IMI, about a dentist or a dental care professional whose professional activities have been prohibited or restricted, even temporarily, within three days from the date of the adoption of the decision; ensuring that the information provided is limited to the information referred to in article 56a(2) of the Directive.
Article 56a(3)	Informing all other competent authorities, by way of an alert through the IMI, about the identity of professionals who have applied for registration and who have been subsequently found to have used falsified evidence of professional qualifications, within three days from the date of the finding.
Article 56a(4)	Ensuring that the processing of personal data for the purposes of the exchange of information under article 56a(1) and (3) of the Directive is carried out in accordance with Directive <a href="#">95/46/EC</a> and Directive <a href="#">2002/58/EC</a> .
Article 56a(5)	Informing all other competent authorities through the IMI without delay when— (a) a prohibition or a restriction referred to in article 56a(1) of the Directive has expired; (b) there is a change to the prohibition or restriction period notified under article 56a(2) of the Directive.
Article 56a(6)	Notifying the practitioner, in respect of whom an alert is sent under article 56a(1) or (3) of the Directive, in writing at the same time as the alert is sent, that the practitioner— (a) is the subject of an alert sent under article 56a(1) or (3) of the Directive; (b) has the right to appeal the decision or to apply for rectification of the decision; (c) has the right to access remedies in respect of any damage caused by false alerts sent to other competent authorities. Informing competent authorities, where applicable, that an alert is the subject of appeal proceedings by the practitioner.
Article 56a(7)	Ensuring that an alert made under article 56a(1) of the Directive is deleted from the IMI within three days of— (a) the date of adoption of the revoking decision; or (b) the expiry of the prohibition or restriction referred to in that article.
Article 57a(1)	Ensuring that all requirements, procedures and formalities relating to the recognition of qualifications of a dentist or a dental care professional may be easily completed by the applicant remotely and by electronic means.”

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#### Marginal Citations

**M9** [Schedule 4ZA](#) was inserted by [S.I. 2007/3101](#).

## CHAPTER 2

### AMENDMENT OF THE EUROPEAN PRIMARY AND SPECIALIST DENTAL QUALIFICATIONS REGULATIONS 1998

#### Introductory

**55.** The European Primary and Specialist Dental Qualifications Regulations 1998 <sup>M10</sup> are amended in accordance with this Chapter.

#### Marginal Citations

**M10** [S.I. 1998/811](#).

#### Amendment of regulation 2

**56.**—(1) Regulation 2(1) (interpretation) <sup>M11</sup> is amended as follows.

(2) For the definition of “General Systems Regulations”, substitute—

““General Systems Regulations” means the European Union (Recognition of Professional Qualifications) Regulations 2015;”.

(3) In the appropriate places, insert—

““Directive [95/46/EC](#)” means Directive [95/46/EC](#) of the European Parliament and of the Council of 24th October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, as amended from time to time;”;

““Directive [2002/58/EC](#)” means Directive [2002/58/EC](#) of the European Parliament and of the Council of 12th July 2002 concerning the processing of personal data and the protection of privacy in the electronic communications sector (Directive on privacy and electronic communications), as amended from time to time;”;

““IMI” means the Internal Market Information System, the online, secure messaging system developed by the European Commission;”.

#### Marginal Citations

**M11** [Regulation 2\(1\)](#) was amended by [S.I. 2004/1947](#), 2007/3101 and 2011/1043.

#### Amendment of regulation 7

**57.**—(1) Regulation 7 (minimum requirements of specialist dental training) <sup>M12</sup> is amended as follows.

(2) After paragraph (4), insert—

“(5) For the purposes of meeting the conditions specified in article 35 of the Directive under this regulation, the reference in article 35 of the Directive to article 34 of the Directive is, in relation to training begun on or before 18th January 2016, to article 34 disregarding the

amendments made by Directive 2013/55/EU of the European Parliament and of the Council of 20th November 2013.”.

#### Marginal Citations

**M12** Regulation 7 was amended by S.I. 2007/3101, which substituted paragraphs (1) and (2) for paragraphs (1) to (3) as originally enacted.

#### Amendment of regulation 8

**58.**—(1) Regulation 8 (distinctive titles and specialist lists) is amended as follows.

(2) In paragraph (2)(c)—

- (a) for “3(9)(a) or (e)” substitute “ 3(8)(a) or (e) ”;
- (b) for “20 to 26” substitute “ 19 to 23 ”;
- (c) for “3(4)” substitute “ 3(5) ”.

#### Insertion of regulation 15A

**59.** In Part 2, after regulation 15 (revocation and saving) <sup>M13</sup>, insert—

##### “Review

**15A.** By 1st November 2021, and subsequently at intervals not exceeding 5 years from that date, in accordance with section 30 of the Small Business, Enterprise and Employment Act 2015, the Secretary of State must—

- (a) carry out a review of the amendments made to these Regulations by the European Qualifications (Health and Social Care Professions) Regulations 2016;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.”.

#### Marginal Citations

**M13** Regulation 16 was originally in Part 3 and was revoked by S.I. 2007/3101.

#### Amendment of Schedule A1

**60.**—(1) Schedule A1 (Directive 2005/36: functions of the GDC under regulation 4(2)) <sup>M14</sup> is amended as follows.

(2) Before the entry relating to article 7(2)(b), insert—

“Article 4f	Considering applications for partial access to the dental profession in the field of orthodontics or oral surgery under regulations 10 and 11 of the General Systems Regulations.”
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(3) In the entry relating to article 8(1)—

- (a) for “Receiving” substitute “ In the event of justified doubts, receiving ”;
- (b) after paragraph (c), insert—

“Receiving information from, or providing information to, other competent authorities in relation to a person's training courses to the extent necessary to assess substantial differences likely to be harmful to public health and safety.”.

(4) After the entry relating to article 50(3), insert—

“Article 50(3a)	In the event of justified doubts, seeking confirmation from, or providing confirmation to, other competent authorities of the fact that the applicant is not suspended or prohibited from the pursuit of the practice of orthodontics or oral surgery as a result of serious professional misconduct or conviction of criminal offences relating to the pursuit of any of the applicant's professional activities.
Article 50(3b)	Ensuring that the exchange of information under article 50 of the Directive with other competent authorities takes place through the IMI.”

(5) In the entry relating to article 56(2), after paragraph (c) insert—

“Ensuring that the processing of personal data for the purposes of the exchange of information in accordance with article 56(2) of the Directive is carried out in accordance with Directive [95/46/EC](#) and Directive [2002/58/EC](#) and through the IMI.”.

(6) After the entry relating to article 56(2) insert—

“Article 56(2a)	Ensuring that the exchange of information carried out in accordance with article 56(2) of the Directive takes place through the IMI.
Article 56a(1) and (2)	Informing all other competent authorities, by way of an alert through the IMI, about an orthodontist or oral surgeon whose professional activities have been prohibited or restricted, even temporarily, within three days from the date of the adoption of the decision; ensuring that the information provided is limited to the information referred to in article 56a(2) of the Directive.
Article 56a(3)	Informing all other competent authorities, by way of an alert through the IMI, about the identity of professionals who have applied for registration and who have been subsequently found to have used falsified evidence of professional qualifications, within three days from the date of the finding.
Article 56a(4)	Ensuring that the processing of personal data for the purposes of the exchange of information under article 56a(1) and (3) of the Directive is carried out in accordance with Directive <a href="#">95/46/EC</a> and Directive <a href="#">2002/58/EC</a> .
Article 56a(5)	Informing all other competent authorities through the IMI without delay when— (a) a prohibition or a restriction referred to in article 56a(1) of the Directive has expired; (b) there is a change to the prohibition or restriction period notified under article 56a(2) of the Directive.
Article 56a(6)	Notifying the orthodontist or oral surgeon, in respect of whom an alert is sent under article 56a(1) or (3) of the Directive, in writing at the same time as the alert is sent, that the orthodontist or oral surgeon— (a) is the subject of an alert sent under article 56a(1) or (3) of the Directive; (b) has the right to appeal against the decision or to apply for rectification of the decision; (c) has the right to access remedies in respect of any damage caused by false alerts sent to other competent authorities.



	Informing competent authorities, where applicable, that an alert is the subject of appeal proceedings by the orthodontist or oral surgeon.
Article 56a(7)	Ensuring that an alert made under article 56a(1) of the Directive is deleted from the IMI within three days of— (a) the date of adoption of the revoking decision; or (b) the expiry of the prohibition or restriction referred to in that article.
Article 57a(1)	Ensuring that all requirements, procedures and formalities relating to the recognition of qualifications as an orthodontist or oral surgeon may be easily completed by the applicant remotely and by electronic means.”

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**Marginal Citations**

**M14** Schedule A1 was inserted by [S.I. 2007/3101](#).

**Changes to legislation:**

There are currently no known outstanding effects for the The European Qualifications (Health and Social Care Professions) Regulations 2016, PART 4.