
STATUTORY INSTRUMENTS

2005 No. 2011

The Dentists Act 1984 (Amendment) Order 2005

PART 2

The Council, their Committees and Registration

Amendment of section 1

3. In section 1 (constitution and general duties of the Council), for subsections (2) to (2C)(1) substitute—

“(2) The Council shall, when exercising their functions under this Act, have a general concern—

- (a) to promote high standards of education at all its stages in all aspects of dentistry; and
- (b) to promote high standards of professional conduct, performance and practice among persons registered under this Act.

(2A) The Council shall be constituted as provided by order of the Privy Council.

(2B) An order of the Privy Council made under subsection (2A) may contain such incidental, consequential, saving, transitional or supplementary provisions as appear to the Privy Council to be necessary or expedient.”.

Amendment of section 2

4.—(1) In section 2 (Committees of the Council)—

(a) for subsections (1) to (4A)(2) substitute—

“(1) There shall continue to be committees of the Council known as—

- (a) the Professional Conduct Committee; and
- (b) the Health Committee.

(2) There shall also be established committees of the Council to be known as—

- (a) the Investigating Committee;
- (b) the Professional Performance Committee;
- (c) the Interim Orders Committee; and
- (d) the Registration Appeals Committee.

(3) In this Act, “Practice Committee” means the Professional Conduct Committee, the Health Committee or the Professional Performance Committee.”; and

(b) in subsection (7), omit “shall be contained in a statutory instrument, and”.

(1) Subsections (2A) to (2C) were inserted by S.I.2001/3926.

(2) Subsection (4A) was inserted by S.I. 2001/3926.

(2) The Preliminary Proceedings Committee, the Continuing Professional Development Committee and the Dental Auxiliaries Committee are abolished.

Insertion of sections 2A to 2D

5. After section 2 insert—

“The Council’s duty to co-operate

2A.—(1) In the exercise of their functions, the Council shall co-operate in so far as reasonably practicable with public authorities, and other bodies and persons, falling within subsection (2).

(2) Public authorities, bodies and persons fall within this subsection if—

- (a) they are concerned with the employment (whether or not under a contract of service) of registered dentists or registered dental care professionals;
- (b) they provide, assess or fund education or training for those who are, or seek to become, registered dentists or registered dental care professionals, or they propose to do so;
- (c) they regulate services in the provision of which registered dentists or registered dental care professionals are engaged;
- (d) they carry out activities in connection with the services provided by the professions regulated under this Act; or
- (e) they—
 - (i) are responsible for regulating or co-ordinating the regulation of health or social care professions not regulated under this Act, or
 - (ii) carry out activities in connection with the services provided by those professions.

(3) In carrying out their duty to co-operate under subsection (1), the Council shall have regard to any differing considerations in relation to the practice of dentistry which apply in England, Scotland, Wales and Northern Ireland.

Annual and other reports

2B.—(1) The Council shall prepare a report for each calendar year on the exercise of their functions in that year.

(2) The Council must submit each report prepared under subsection (1) to the Privy Council within the calendar year after the year to which the report relates.

(3) The first report prepared under subsection (1) shall relate to the last complete calendar year before the commencement of this subsection.

(4) The Privy Council shall, as soon as reasonably practicable after a report is submitted to it under subsection (2), lay a copy of that report before each House of Parliament and the Scottish Parliament.

(5) The Council shall publish at least once in each calendar year a statistical report which indicates the efficiency and effectiveness of the arrangements they have put in place to protect the public from persons whose fitness to practise as a dentist or as a member of a profession complementary to dentistry is impaired, together with the Council’s observations on the report.

Accounts

2C.—(1) The Council shall—

- (a) keep accounts, and
- (b) prepare a statement of accounts in respect of each calendar year,

in such form as the Privy Council may determine in writing.

(2) The Council shall appoint an auditor to audit each statement of accounts prepared in accordance with subsection (1)(b), and the auditor must prepare a report on each statement of accounts.

(3) The auditor appointed must be eligible for appointment as a company auditor under section 25 of the Companies Act 1989 or article 28 of the Companies (Northern Ireland) Order 1990.

(4) The Council shall, as soon as reasonably practicable after the end of each calendar year—

- (a) publish the statement of accounts for that year, together with the auditor’s report on it; and
- (b) send a copy of the statement of accounts and the report to the Privy Council and the Comptroller and Auditor General.

(5) The Comptroller and Auditor General shall examine, certify and report on each statement of accounts received under subsection (4) and for these purposes may inspect accounts kept by the Council in accordance with subsection (1)(a).

(6) The Comptroller and Auditor General shall send a copy of each report prepared by him under subsection (5) to the Council and the Privy Council.

(7) The Privy Council shall, as soon as reasonably practicable after the end of each calendar year, lay before each House of Parliament and the Scottish Parliament a copy of—

- (a) the statement of accounts for that year as certified by the Comptroller and Auditor General;
- (b) the auditor’s report for that year; and
- (c) the report of the Comptroller and Auditor General for that year.

Complaints

2D.—(1) The Council may incur expenditure for the purposes of investigating and resolving dental complaints.

(2) In this section “dental complaints” means complaints made by users of the services of registered dentists or the services of registered dental care professionals about—

- (a) the dental services provided by a registered dentist, a registered dental care professional or a body corporate carrying on the business of dentistry; or
- (b) the goods or materials provided to persons, or the facilities provided for persons, using those dental services.

(3) The Council may also incur expenditure for the purposes of assisting the parties to the dental complaint in reaching a satisfactory resolution of that complaint.”.

Substitution of section 14

6. For section 14 substitute—

“The dentists register and the registrar

14.—(1) There shall continue to be a register known as the dentists register (referred to in this Act as “the register”).

(2) The register shall be kept by a registrar appointed by the Council.

(3) Any person appointed to the office of registrar shall hold the office for such period and shall receive such salary as may be fixed by the Council.

(4) The registrar shall perform such duties in connection with the register as the Council may direct, and in the execution of his duties he shall act on such evidence as in each case appears to him sufficient.

(5) The registrar may delegate, either generally or specifically, any of his functions to any of the Council’s officers.

(6) A certificate purporting to be signed by the registrar, certifying that a person—

(a) is registered in the register,

(b) is not registered in the register,

(c) was registered in the register at a specified date or during a specified period,

(d) was not registered in the register at a specified date or during a specified period, or

(e) has never been registered in the register,

shall be evidence (and in Scotland sufficient evidence) of the matters certified.”.

Amendment of section 18

7. In section 18 (procedure for registration)—

(a) in subsection (1), after “registration” insert “in the register”;

(b) in subsection (2), after “applying to be registered” insert “in the register”; and

(c) in subsection (3), after “duly register” insert “in the register”.

Amendment of section 19

8. In section 19 (regulations with respect to the register)—

(a) for subsection (2)(3) substitute—

“(2) Regulations under this section may authorise the registrar to erase from the register the name of a person who, after such notices and warnings as may be prescribed by the regulations, fails to pay a fee prescribed under subsection (1)(b).

(2A) Where a person’s name has been erased by virtue of regulations under this section, that name shall be restored to the register on that person’s application if he satisfies the registrar that he meets the requirements of—

(a) section 15(3)(a) to (c);

(b) section 26A; and

(c) any rules made under section 34B which apply to his case.

(2B) Where the registrar refuses to restore a person’s name to the register under subsection (2A), the registrar shall forthwith serve on the person concerned notification of the decision and of the reasons for it.”; and

(b) omit subsections (3) and (4).

(3) Subsection (2) was substituted by S.I. 1996/1496.

Repeal of sections 20 and 21

9. Section 20 (selection of proper abbreviations of overseas diplomas) and section 21 (notification of reasons for refusal of application for registration etc.) are hereby repealed.

Substitution of section 22

10. For section 22 substitute—

“Publication of the register

22.—(1) The registrar shall make available to members of the public in such form as he considers appropriate—

- (a) the names of persons appearing in the register;
- (b) the qualifications of persons appearing in the register; and
- (c) such other details as the Council may direct.

(2) For the purposes of subsection (1), the registrar may provide a member of the public with a copy of, or extract from, the register, and any such copy or extract shall be evidence (and in Scotland sufficient evidence) of the matters mentioned in it.”.

Amendment of section 23

11. In section 23 (erasure of names of deceased persons and of those who have ceased to practise)

—
(a) for subsection (4)(4) substitute—

“(4) Where a person’s name has been erased from the register under subsection (2) or (3) or at his request, then, unless the original entry of his name was incorrectly made or fraudulently procured, the name shall be restored to the register on his application if he satisfies the registrar that he meets the requirements of—

- (a) section 15(3)(a) to (c);
- (b) section 26A; and
- (c) any rules made under section 34B which apply to his case.”; and

(b) omit subsection (5).

Substitution of section 24

12. For section 24 substitute—

“Erasure on grounds of fraud or error

24.—(1) If the registrar is satisfied that any entry in the register has been incorrectly made, he shall erase that entry from the register.

(2) If the registrar has reason to believe that any entry in the register has been fraudulently procured, he shall refer the matter to the Professional Conduct Committee to determine the question of whether that entry has been fraudulently procured.

(3) If the Professional Conduct Committee determine that the entry has been fraudulently procured, they may direct that the entry shall be erased from the register.

(4) Subsection (4) was amended by S.I. 2001/3926.

(4) Where a person's name has been erased from the register under subsection (3), that person may apply to the Council for his name to be restored to the register.

(5) The Council shall refer an application under subsection (4) to the Professional Conduct Committee.

(6) The Professional Conduct Committee shall determine an application referred under subsection (5) and may decide—

- (a) that the person's name is to be restored to the register;
- (b) that the person's name is not to be restored to the register; or
- (c) that the person's name is not to be restored to the register until the end of such period as they shall specify.

(7) If the Professional Conduct Committee give a direction under subsection (3) or a decision under subsection (6), the registrar shall forthwith serve on the person concerned notification of the direction or decision and (except in the case of a decision under subsection (6)(a)) of his right to appeal against it under section 29.”

Repeal of section 25

13. Section 25 (alterations of names and addresses) is hereby repealed.

Insertion of section 25A

14.—(1) After section 25 insert—

“Registration appeals

Registration appeals

25A. Schedule 2A to this Act (registration appeals: dentists register) shall have effect.”

(2) Schedule 1 to this Order, which inserts a new Schedule 2A into the Act, shall have effect.

Amendment of section 26

15. In section 26 (use of titles and descriptions)—

(a) after subsection (4) insert—

“(4A) The Council may make regulations—

- (a) prescribing a fee to be charged on the entry of a name in a list for the time being kept by them under subsection (4), or on the restoration of any entry to such a list;
- (b) prescribing a fee to be charged in respect of the retention of the name of a person in such a list.

(4B) Regulations under subsection (4A) may in particular authorise the registrar—

- (a) to refuse to make in or restore to a list for the time being kept by the Council under subsection (4) any entry until a fee prescribed by the regulations has been paid; and
- (b) to erase from such a list the name of a person who, after such notices and warnings as may be prescribed by the regulations, fails to pay a fee prescribed by the regulations in respect of the retention of a person's name in that list.”;

(b) omit subsection (5);

- (c) in subsection (6) omit “or (5)”; and
- (d) for subsection (7) substitute—

“(7) The Council shall from time to time publish any list for the time being kept by them under subsection (4).”.

Insertion of section 26A

16. After section 26 insert—

“Insurance

Insurance

26A.—(1) A registered dentist must be covered by adequate and appropriate insurance throughout the period during which he is registered in the register.

(2) In this section “adequate and appropriate insurance” means insurance of a type and amount which rules under this section specify as adequate and appropriate.

(3) A person seeking registration in the register must supply the registrar with evidence that, if his name were to be entered in the register, he would be covered by adequate and appropriate insurance commencing, at the latest, on the date on which his name was so entered.

(4) A registered dentist seeking the retention of his name in the register must, before the commencement of the period for which he is seeking the retention of his name in the register, supply the registrar with evidence that he is covered by adequate and appropriate insurance.

(5) A person seeking the restoration of his name to the register must supply the registrar with evidence that, if his name were to be restored to the register, he would be covered by adequate and appropriate insurance commencing, at the latest, on the date on which his name was so restored.

(6) The registrar may at any other time require a registered dentist to supply him with evidence that he is covered by adequate and appropriate insurance, and a registered dentist must comply with such a requirement as soon as reasonably practicable.

(7) A registered dentist or (as the case may be) a person seeking registration in, or restoration of his name to, the register must inform the registrar forthwith if he is no longer covered by adequate and appropriate insurance or (as the case may be) arrangements under which he would be covered by such insurance are no longer in place.

(8) If a person fails to comply with the requirements of this section, the registrar may—

- (a) refuse to register his name in the register;
- (b) refuse to restore his name to the register;
- (c) erase his name from the register; or
- (d) refer the matter to the Investigating Committee under section 27(5)(a) as if the person’s failure to comply with the requirements of this section constituted an allegation that his fitness to practise as a dentist is impaired by reason of misconduct for the purposes of section 27.

(9) Where a person’s name has been erased from the register under subsection (8)(c), that name shall be restored to the register on that person’s application if he satisfies the registrar that he meets the requirements of—

- (a) section 15(3)(a) to (c);

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- (b) this section; and
 - (c) any rules made under section 34B which apply to his case.
- (10) In this section “insurance” means—
- (a) a contract of insurance providing cover for liabilities which may be incurred in carrying out work as a dentist; or
 - (b) an arrangement made for the purpose of indemnifying a person against such liabilities.”.