Dentists Act 1984

1984 CHAPTER 24

[PART 3A

PROFESSIONS COMPLEMENTARY TO DENTISTRY]

[Professional conduct and fitness to practise

36N. Allegations

(1) This section applies where an allegation is made to the Council against a registered dental care professional that his fitness to practise as a member of a profession complementary to dentistry is impaired.

(2) A person’s fitness to practise as a member of a profession complementary to dentistry shall be regarded as “impaired” for the purposes of this Act by reason only of—

(a) misconduct;
(b) deficient professional performance;
(c) adverse physical or mental health;
(d) a conviction or caution in the United Kingdom for a criminal offence, or a conviction elsewhere for an offence which, if committed in England and Wales, would constitute a criminal offence;
(e) the person having—
   (i) accepted a conditional offer under section 302 of the Criminal Procedure (Scotland) Act 1995 (fixed penalty: conditional offer by procurator fiscal), or
   (ii) agreed to pay a penalty under section 115A of the Social Security Administration Act 1992 (penalty as alternative to prosecution);
(f) the person, in proceedings in Scotland for an offence, having been the subject of an order under section 246(2) or (3) of the Criminal Procedure (Scotland) Act 1995 discharging him absolutely; or
(g) a determination by a body in the United Kingdom responsible under any enactment for the regulation of a health or social care profession to the effect
that the person’s fitness to practise as a member of that profession is impaired, or a determination by a regulatory body elsewhere to the same effect.

(3) It does not matter whether the allegation is based on a matter alleged to have occurred—
   (a) outside the United Kingdom; or
   (b) at a time when the person was not registered in the dental care professionals register.

(4) This section also applies in a case where—
   (a) it comes to the attention of the Council that a registered dental care professional’s fitness to practise as a member of a profession complementary to dentistry may be impaired on one or more of the grounds mentioned in subsection (2), but
   (b) no allegation to that effect has been made to the Council against that person, and in such a case this Act shall apply as if an allegation or allegations to the effect that the person’s fitness to practise as a member of a profession complementary to dentistry is impaired on the ground or grounds in question had been made to the Council against that person.

(5) The registrar—
   (a) shall refer the allegation to the Investigating Committee; and
   (b) may, at any time before the Investigating Committee have begun to consider the allegation, refer the allegation to the Interim Orders Committee if he considers it appropriate.

(6) The registrar shall investigate the allegation for the purpose of—
   (a) determining whether it is an allegation in relation to which this section applies, and
   (b) if he determines that it is, determining whether to refer the allegation to the Interim Orders Committee under subsection (5)(b).

(6A) Rules may make provision for enabling the registrar to review a determination under subsection (6)(a) that the allegation is not an allegation in relation to which this section applies (including provision as to the action which may be taken following a review).

(7) In this section—
   (a) “enactment” includes—
      (i) a provision of, or an instrument made under, an Act of the Scottish Parliament,
      (ii) a provision of, or an instrument made under, Northern Ireland legislation, and
      (iii) a provision of subordinate legislation (within the meaning of the Interpretation Act 1978); and
   (b) “regulatory body” means a regulatory body which has the function of authorising persons to practise as members of a health or social care profession.

F2 S. 36N(5)(b) substituted (13.4.2016) by The General Dental Council (Fitness to Practise etc.) Order 2016 (S.I. 2016/496), arts. 1, 16

F3 S. 36N(6)(6A) substituted for s. 36N(6) (13.4.2016) by The General Dental Council (Fitness to Practise etc.) Order 2016 (S.I. 2016/496), arts. 1, 12
Changes to legislation:
There are outstanding changes not yet made by the legislation.gov.uk editorial team to Dentists Act 1984. Any changes that have already been made by the team appear in the content and are referenced with annotations.

View outstanding changes

Changes and effects yet to be applied to:
- s. 36N(2)(f) word omitted by S.I. 2009/1182 Sch. 1 para. 8 (This effect comes into force on the coming into force of s. 44(1) of the Safeguarding Vulnerable Groups Act 2006 (c. 47). S. 44(1) was repealed without ever being in force on 10.9.2012 by 2012 c. 9, s. 75(6), Sch. 10 Pt. 5; S.I. 2012/2234, art. 2)
- s. 36N(2)(g) words inserted by 2008 c. 14 Sch. 10 para. 9

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:
- Blanket amendment words substituted by S.I. 2011/1043 art. 34

Whole provisions yet to be inserted into this Act (including any effects on those provisions):
- s. 15(2)-(2ZB) substituted for s. 15(2) by S.I. 2019/593 Sch. 3 para. 5(b)
- s. 15(4ZA) inserted by S.I. 2019/593 Sch. 3 para. 5(d)
- s. 27(2)(h)(i) inserted by S.I. 2009/1182 Sch. 1 para. 7 (This effect comes into force on the coming into force of s. 44(1) of the Safeguarding Vulnerable Groups Act 2006 (c. 47). S. 44(1) was repealed without ever being in force on 10.9.2012 by 2012 c. 9, s. 75(6), Sch. 10 Pt. 5; S.I. 2012/2234, art. 2)
- s. 27(2)(ba) inserted by S.I. 2015/806 art. 17
- s. 27A(5)(aa) inserted by S.I. 2015/806 art. 18(3)
- s. 27BA inserted by S.I. 2015/806 art. 19
- s. 36C(4A) inserted by S.I. 2019/593 Sch. 3 para. 19(c)
- s. 36N(2)(h)(i) inserted by S.I. 2009/1182 Sch. 1 para. 8 (This effect comes into force on the coming into force of s. 44(1) of the Safeguarding Vulnerable Groups Act 2006 (c. 47). S. 44(1) was repealed without ever being in force on 10.9.2012 by 2012 c. 9, s. 75(6), Sch. 10 Pt. 5; S.I. 2012/2234, art. 2)
- s. 36N(2)(ba) inserted by S.I. 2015/806 art. 24
- s. 36O(5)(aa) inserted by S.I. 2015/806 art. 25(3)
- s. 36PA inserted by S.I. 2015/806 art. 26