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STATUTORY INSTRUMENTS

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**2005 No. 2011**

The Dentists Act 1984 (Amendment) Order 2005

PART 4

Professions Complementary to Dentistry

**Insertion of sections 36A to 36I**

29. After section 36 insert—

“PART 3A

Professions Complementary to Dentistry

*Introductory*

**Professions complementary to dentistry**

**36A.**—(1) For the purposes of this Act, a profession complementary to dentistry is a profession—

- (a) the majority of whose members work in connection with the provision of dental care—
  - (i) with persons receiving such care, or
  - (ii) with persons registered in the dentists register or the dental care professionals register established by section 36B; and
- (b) in respect of which the regulatory body is not a body (other than the Council) regulated by the Council for the Regulation of Health Care Professionals under section 25 of the National Health Service Reform and Health Care Professions Act 2002.

(2) The Council may by regulations specify—

- (a) a profession complementary to dentistry; or
- (b) a class of members of a profession complementary to dentistry.

(3) Regulations under subsection (2) specifying a profession or class of members must also specify a title which applies to that profession or class.

(4) Regulations under subsection (2) shall not come into force until approved by order of the Privy Council.

(5) Before making regulations under subsection (2), the Council shall consult organisations appearing to the Council to be representative of the professions, or classes of members of professions, specified in the proposed regulations.

(6) The following provisions of this Part apply in relation to all members of a profession complementary to dentistry except those members of a profession or class in relation to which no regulations under subsection (2) are in force.

### *Education and registration*

#### **The dental care professionals register**

**36B.**—(1) There shall be a register of members of professions complementary to dentistry to be known as the dental care professionals register.

(2) The dental care professionals register shall be kept by the registrar.

(3) Subsections (4) and (5) of section 14 apply to the register established under this section, and to the registrar's duties as keeper of that register, as they apply to the dentists register and to the registrar's duties in respect of the dentists register.

(4) Rules may make provision relating to the form of the dental care professionals register and the manner in which it is to be kept.

(5) A person may not be registered in the dental care professionals register except under one or more of the titles specified in regulations under section 36A(2).

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

- (a) is registered in the dental care professionals register under a particular title,
- (b) is not registered in that register under a particular title,
- (c) was registered in that register under a particular title at a specified date or during a specified period,
- (d) was not registered in that register under a particular title at a specified date or during a specified period, or
- (e) has never been registered in that register under a particular title,

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

#### **Qualifications for registration**

**36C.**—(1) Subject to the provisions of this Act, a person shall be entitled to be registered under a particular title in the dental care professionals register if he satisfies the registrar—

- (a) in a case where the title concerned is that of dental hygienist or dental therapist—
  - (i) of matter A, B or C, and
  - (ii) of matter D; and
- (b) in any other case—
  - (i) of matter A or C, and
  - (ii) of matter D.

(2) Matter A is that the person holds a qualification or qualifications approved by the Council under section 36D(2) in relation to the profession, or class of members of a profession, to which the title applies.

(3) Matter B is that the person—

- (a) either—
  - (i) is a national of an EEA State, or

- (ii) is not a national of an EEA State but is, by virtue of a right conferred by article 11 of Council Regulation (EEC) No. 1612/68 or any other enforceable Community right, entitled to be treated, for the purposes of access to a profession complementary to dentistry, no less favourably than a national of such a State; and
  - (b) has a right to practise in the United Kingdom as a dental hygienist or dental therapist (as the case may be) by virtue of the European Communities (Recognition of Professional Qualifications) (Second General System) Regulations 2002 (S.I.2002/2934).
- (4) Matter C is that the person—
- (a) holds a qualification or qualifications granted by an institution or institutions outside the United Kingdom relevant to the profession complementary to dentistry, or class of members of such a profession, to which the title applies (in this section referred to as “relevant qualifications”);
  - (b) has satisfied the Council that he has the requisite knowledge and skill to practise as a member of the profession or class to which the title applies; and
  - (c) has the knowledge of English which, in the interests of himself and his patients, is necessary for practising in the United Kingdom as a member of the profession or class to which the title applies.
- (5) For the purpose of establishing whether a person has the requisite knowledge and skill for the purposes of subsection (4)(b), the Council—
- (a) in all cases—
    - (i) shall take into account all that person’s relevant qualifications, and all relevant knowledge or experience, wherever acquired, and
    - (ii) may determine that a person must perform to the satisfaction of the Council in any test or assessment specified in the determination; and
  - (b) in the case of a national of an EEA State (or a person within subsection (3)(a)(ii)) who holds a relevant qualification granted by an institution or institutions outside the EEA which has been accepted by another EEA State as qualifying him to practise in that State as a member of the profession or class to which the title applies, shall take that acceptance into account.
- (6) Matter D is—
- (a) the person’s identity;
  - (b) that he is of good character; and
  - (c) that he is in good health, both physically and mentally.
- (7) In this section “national” has the meaning given to it in section 15(2).

### **Education and training for members of professions complementary to dentistry**

- 36D.**—(1) For each regulated profession or class, the Council shall, from time to time—
- (a) determine the appropriate standard of proficiency which, in their opinion, is required for a person to practise competently and safely as a member of the profession or class; and
  - (b) specify the content and standard of the education and training (including practical experience) which, in their opinion, is required for imparting the knowledge and skills necessary for a person to obtain that proficiency.
- (2) Where the Council are satisfied that—

- (a) a qualification granted by an institution in the United Kingdom is evidence of having reached the standard of proficiency for a regulated profession or class determined under subsection (1),
- (b) a qualification which such an institution proposes to grant will be such evidence, or
- (c) two or more qualifications granted or to be granted as mentioned in paragraph (a) or (b), taken together, are or will be such evidence,

the Council may approve that qualification or those qualifications in relation to that regulated profession or class.

(3) The matters determined or specified under subsection (1), and the qualifications approved under subsection (2), shall be published by the Council from time to time in such form as appears to them to be appropriate.

(4) The Council shall ensure that establishments providing or overseeing courses of education or training for persons who seek registration under a title in the dental care professionals register are notified of—

- (a) the matters for the time being determined or specified under subsection (1); and
- (b) the qualifications for the time being approved under subsection (2).

(5) Rules shall make provision for the withdrawal of approval given under subsection (2) in such circumstances as may be specified in the rules.

(6) Rules may make provision for the appointment by the Council of persons to visit establishments which provide or oversee, or seek to provide or oversee, courses of education or training for persons referred to in subsection (4), for the purposes of advising and reporting back to the Council upon matters connected with such courses, including—

- (a) the sufficiency of instruction provided or overseen by, or to be provided or overseen by, those establishments;
- (b) the suitability of a particular qualification for approval under subsection (2); and
- (c) whether approval of a particular qualification ought to be withdrawn under rules under subsection (5).

(7) Rules may make provision—

- (a) for the appointment by the Council of persons to attend examinations (or other forms of assessment) taken by persons attempting to obtain qualifications approved under subsection (2); and
- (b) for persons appointed under paragraph (a) to report back to the Council on their findings.

(8) In this section “regulated profession or class” means a profession complementary to dentistry, or class of members of such a profession, specified in regulations under section 36A(2).

#### *Procedure for registration*

### **Rules relating to the dental care professionals register**

**36E.** Rules may make provision relating to—

- (a) the form of an application by a person seeking registration under a title in the dental care professionals register;
- (b) the manner in which an application under paragraph (a) is to be made;

- (c) the evidence and information which an applicant must supply in support of an application under paragraph (a);
- (d) the details which must be entered in the dental care professionals register; and
- (e) the procedure for the making, alteration and deletion of entries in that register.

## **Fees**

**36F.**—(1) The Council may by regulations—

- (a) prescribe a fee to be charged on—
  - (i) the entry of a person’s name in the dental care professionals register under a title (including a name already registered in that register under another title or titles),
  - (ii) the restoration of a person’s name to that register under a title (including a name already registered in that register under another title or titles), or
  - (iii) the entry in that register of additional qualifications held by a registered dental care professional;
- (b) prescribe a fee to be charged in respect of the retention of a person’s name under a title or titles in the dental care professionals register for each period of twelve months;
- (c) provide for the payment by instalments of a fee prescribed by regulations under paragraph (b);
- (d) authorise the registrar (notwithstanding anything in this Act) to refuse to make in, or restore to, the dental care professionals register any entry until a fee prescribed by regulations under this section has been paid.

(2) The Council may by regulations provide that where a person, after such notices and warnings as may be provided for in the regulations, fails to pay a fee prescribed by regulations under subsection (1)(b), the registrar may erase that person’s name from registration under all titles under which that person is registered in the dental care professionals register.

(3) Where a person’s name has been erased from registration under a particular title by virtue of regulations under subsection (2), that name shall be restored to the dental care professionals register under that title on that person’s application if he satisfies the registrar—

- (a) of Matter D within the meaning of section 36C; and
- (b) that he meets the requirements of—
  - (i) section 36L, and
  - (ii) any rules made under section 36Z2 which apply to his case.

(4) Where, under subsection (3), the registrar refuses to restore a person’s name to the dental care professionals register under a title, the registrar shall forthwith serve on the person concerned notification of the decision and of the reasons for it.

### *Publication of the dental care professionals register*

## **Publication of the dental care professionals register**

**36G.**—(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 dental care professionals register;
- (b) the title or titles under which a person is registered in that register;
- (c) the qualifications of persons appearing in that register; and
- (d) 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 dental care professionals register, and any such copy or extract shall be evidence (and in Scotland sufficient evidence) of the matters mentioned in it.

#### *Erasures and alterations in the dental care professionals register*

#### **Erasure of names of deceased persons and of those who have ceased to practise**

**36H.**—(1) The registrar shall erase the name of a deceased person from registration under all titles under which that person is registered in the dental care professionals register; and on registering the death of a registered dental care professional, a registrar of births and deaths shall, without charge to the recipient, send forthwith by post to the registrar a copy certified under his hand of the entry in the register of deaths relating to the death.

(2) Where a person is registered in the dental care professionals register under a title applying to a particular profession, or class of members of a profession, and has ceased to practise as a member of that profession or class, the registrar may, with that person's consent, erase his name from registration in that register under that title.

(3) The registrar may send by post to a registered dental care professional a notice inquiring whether he has ceased to practise as a member of a particular profession complementary to dentistry, or class of members of such a profession, or has changed his residence and, if no answer is received to the inquiry within six months from the posting of the notice, the registrar may erase that person's name from registration under all titles under which that person is registered in the dental care professionals register.

(4) Where, under subsection (2) or (3) or at a person's request, a person's name has been erased from registration under a particular title, that name shall be restored to the dental care professionals register under that title on that person's application if the conditions specified in subsection (5) are met.

(5) The conditions referred to in subsection (4) are that—

- (a) the original entry of the person's name in the dental care professionals register under the title in question was not incorrectly made or fraudulently procured;
- (b) the person satisfies the registrar of Matter D within the meaning of section 36C; and
- (c) the person also satisfies the registrar that he meets the requirements of—
  - (i) section 36L, and
  - (ii) any rules made under section 36Z2 which apply to his case.

#### **Erasure on grounds of fraud or error**

**36I.**—(1) If the registrar is satisfied that any entry in the dental care professionals register has been incorrectly made, he shall erase that entry from that register.

(2) If the registrar has reason to believe that any entry in the dental care professionals 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 in the dental care professionals register has been fraudulently procured, they may direct that the name of the person to whom the entry relates shall be erased from registration under all titles under which he is registered in that register.

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

(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 dental care professionals register under the title in question;
- (b) that the person's name is not to be restored to that register under the title in question; or
- (c) that the person's name is not to be restored to that register under the title in question until the end of such period as the Professional Conduct Committee 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 36S.”