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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 36K to 36V**

**31.** After section 36J insert—

*“Use of titles and descriptions*

**Use of titles and descriptions**

**36K.—**(1) A registered dental care professional shall not take or use, or affix to or use in connection with his premises—

- (a) any description reasonably calculated to suggest that he possesses any professional status or qualification other than a professional status or qualification which he in fact possesses and which is indicated by particulars entered in the dental care professionals register in respect of him; or
- (b) any title specified in regulations under section 36A(2) except the title or titles under which he is registered in the dental care professionals register.

(2) Any person who contravenes subsection (1) shall be liable on summary conviction to a fine not exceeding level 3 on the standard scale.

*Insurance*

**Insurance**

**36L.—**(1) A registered dental care professional must, in relation to each title under which he is registered in the dental care professionals register, be covered by adequate and appropriate insurance throughout the period during which he is so registered under that title.

(2) In this section “adequate and appropriate insurance”, in relation to a title specified in regulations under section 36A(2), means insurance of a type and amount which rules under this section specify as adequate and appropriate in relation to that title.

(3) A person seeking registration in the dental care professionals register under a particular title (whether or not he is already registered in that register under any other title or titles) must supply the registrar with evidence that, if his name were to be entered in that register under that title, he would be covered by adequate and appropriate insurance in relation to that title commencing, at the latest, on the date on which his name was so entered.

(4) A registered dental care professional seeking the retention of his name in the dental care professionals register under a particular title must, before the commencement of the

period for which he is seeking the retention of his name in that register under that title, supply the registrar with evidence that he is covered by adequate and appropriate insurance in relation to that title.

(5) A person seeking the restoration of his name to the dental care professionals register under a particular title (whether or not he is already registered in that register under any other title or titles) must supply the registrar with evidence that, if his name were to be restored to that register under that title, he would be covered by adequate and appropriate insurance in relation to that title 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 dental care professional to supply him with evidence that he is covered by adequate and appropriate insurance in relation to a title under which he is registered, and a registered dental care professional must comply with such a requirement as soon as reasonably practicable.

(7) A registered dental care professional must inform the registrar forthwith if he is no longer covered by adequate and appropriate insurance in relation to any title under which he is registered.

(8) A person seeking registration in, or restoration of his name to, the dental care professionals register must inform the registrar forthwith if arrangements under which he would be covered by adequate and appropriate insurance in relation to any title under which he is seeking to be registered or restored are no longer in place.

(9) If a person fails to comply with the requirements of this section in relation to any title in the dental care professionals register, the registrar may—

- (a) refuse to register his name in that register under that title;
- (b) refuse to restore his name to that register under that title;
- (c) erase his name from registration in that register under that title; or
- (d) refer the matter to the Investigating Committee under section 36N(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 member of a profession complementary to dentistry is impaired by reason of misconduct for the purposes of section 36N.

(10) Where, under subsection (9)(c), 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 he satisfies the registrar—

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

(11) In this section "insurance" means—

- (a) a contract of insurance providing cover for liabilities which may be incurred in carrying out work as a member of a profession complementary to dentistry; or
- (b) an arrangement made for the purpose of indemnifying a person against such liabilities.

*Professional conduct and fitness to practise*

**Guidance**

**36M.**—(1) The Council shall prepare and from time to time issue guidance as to the standards of conduct, performance and practice expected of registered dental care professionals.

(2) Such guidance may make different provision in relation to different cases or classes of case, and in particular in relation to different descriptions of registered dental care professionals.

(3) The Council shall keep such guidance under review and may vary or withdraw it whenever they consider it appropriate to do so.

(4) The Council shall from time to time publish guidance issued under this section.

(5) Before issuing such guidance or varying or withdrawing it, the Council shall consult—

- (a) such persons to whom subsection (6) applies as the Council consider appropriate;
- (b) the bodies within subsection (8); and
- (c) such bodies to which subsection (9) applies as the Council consider appropriate.

(6) This subsection applies to persons who appear to the Council to be representative of one or more of the following—

- (a) users of the services of registered dentists;
- (b) users of the services of registered dental care professionals;
- (c) registered dentists;
- (d) registered dental care professionals;
- (e) employers of registered dentists; and
- (f) employers of registered dental care professionals.

(7) The Council shall exercise their function under subsection (5)(a) so that the persons consulted are, taken together, representative of all the categories of person mentioned in subsection (6)(a) to (f).

(8) The bodies within this subsection are—

- (a) Primary Care Trusts in England;
- (b) Local Health Boards in Wales;
- (c) Health Boards in Scotland; and
- (d) Health and Social Services Boards in Northern Ireland.

(9) This subsection applies to bodies which make arrangements, for the provision of dental services, with one or both of the following—

- (a) registered dentists,
- (b) registered dental care professionals,

but are not within subsection (8).

(10) The Council may charge such fee as they consider reasonable for the provision of a copy of the guidance to any person.

## Allegations

**36N.**—(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 also, if he considers it appropriate, refer the allegation to the Interim Orders Committee.

(6) The registrar shall investigate the allegation for the purpose of exercising his functions under subsection (5).

- (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.

### **The Investigating Committee**

**36O.**—(1) Where the registrar refers an allegation under section 36N to the Investigating Committee they shall investigate the allegation and determine whether the allegation ought to be considered by a Practice Committee.

(2) If the Investigating Committee determine that the allegation ought not to be considered by a Practice Committee, the Investigating Committee may—

- (a) issue a warning or advice to the person who is the subject of the allegation regarding his future conduct, performance and practice; and
- (b) issue advice to any other person involved in the investigation on any issue arising in the course of the investigation.

(3) If the Investigating Committee issue a warning under subsection (2)(a), they may, if they consider it appropriate to do so, direct the registrar to enter details of that warning in any entry in the dental care professionals register relating to the person who is the subject of the allegation.

(4) Unless subsection (5) applies, if the Investigating Committee determine that the allegation ought to be considered by a Practice Committee, the Investigating Committee—

- (a) shall refer the allegation—
  - (i) to the Professional Performance Committee, in the case of an allegation based on the ground mentioned in section 36N(2)(b) (deficient professional performance),
  - (ii) to the Health Committee, in the case of an allegation based on the ground mentioned in section 36N(2)(c) (adverse physical or mental health), or
  - (iii) to the Professional Conduct Committee, in any other case; and
- (b) may also, if they consider it appropriate, refer the allegation to the Interim Orders Committee.

(5) This subsection applies in a case where two or more allegations under section 36N relating to the same person have been referred to the Investigating Committee and those allegations are—

- (a) an allegation based on the ground mentioned in section 36N(2)(b) and an allegation or allegations based on any other grounds mentioned in section 36N(2); or
- (b) an allegation based on the ground mentioned in section 36N(2)(c) and an allegation or allegations based on any other grounds mentioned in section 36N(2).

(6) Where subsection (5) applies, and the Investigating Committee determine that two or more of those allegations ought to be considered by a Practice Committee, the Investigating Committee—

- (a) shall refer those allegations to whichever one of the Practice Committees they consider most appropriate; and
- (b) may also, if they consider it appropriate, refer those allegations to the Interim Orders Committee.

(7) The registrar shall serve notification of any determination made by the Investigating Committee under subsection (1) on the person who is the subject of the allegation and on the person (if any) making the allegation.

(8) The Investigating Committee may review and if they consider it appropriate revise a determination made by them that an allegation or allegations ought to be considered by a particular Practice Committee—

- (a) on a reference back to them from that Practice Committee under section 36P(5); or
- (b) on an application made by the Council, the registrar, the person who is the subject of the allegation or allegations or any person making the allegation or allegations, but only if such review is carried out—
  - (i) where there is to be a hearing before that Practice Committee, before the commencement of that hearing, or
  - (ii) where there is not to be a hearing before that Practice Committee, before that Practice Committee have begun to consider written statements or representations.

(9) Subsection (2) applies to a determination by the Investigating Committee, following a review under subsection (8), that an allegation or allegations ought not to be considered by a Practice Committee, as it applies to a determination under subsection (1) that an allegation ought not to be considered by a Practice Committee.

(10) If the Investigating Committee determine, under subsection (1) or following a review under subsection (8), that an allegation or allegations against a person ought not to be considered by a Practice Committee, they shall, at the same time, revoke with immediate effect any interim order which has been made under section 36V in respect of that person in consequence of that allegation or those allegations.

### **The Practice Committees**

**36P.—**(1) Subject to subsection (5), a Practice Committee must investigate an allegation or allegations against a person referred to them by the Investigating Committee under section 36O and determine whether that person's fitness to practise as a member of a profession complementary to dentistry is impaired.

(2) A Practice Committee shall, in exercising their function under subsection (1), make separate determinations in relation to each title under which that person is registered in the dental care professionals register, as to his fitness to practise as a member of the profession, or class of members of a profession, to which that title applies.

(3) In making a determination under subsection (1), a Practice Committee may take into account whether the person who is the subject of the allegation or allegations has complied with any relevant parts of the guidance issued under section 36M, but that question is not of itself determinative of whether a person's fitness to practise as a member of a profession complementary to dentistry is impaired.

(4) If the person who is the subject of an allegation or allegations is also registered in the dentists register, a Practice Committee shall, in exercising their function under

subsection (1), make a separate determination under section 27B(1) (fitness to practise as a dentist).

(5) Where a Practice Committee consider that any allegation should not have been referred to them by the Investigating Committee under section 36O, they may refer that allegation back to the Investigating Committee.

(6) If a Practice Committee determine that, in relation to a title under which a person is registered in the dental care professionals register, his fitness to practise as a member of the profession, or class of members of a profession, to which that title applies is not impaired, they—

- (a) shall publish at his request a statement to that effect; or
- (b) may publish such a statement if he consents.

(7) If a Practice Committee determine that, in relation to a title under which a person is registered in the dental care professionals register, his fitness to practise as a member of the profession, or class of members of a profession, to which that title applies is impaired, they may, if they consider it appropriate, direct—

- (a) (subject to subsection (8)) that the person's name shall be erased from registration in that register under that title;
- (b) that his registration in that register under that title shall be suspended during such period not exceeding twelve months as may be specified in the direction;
- (c) that his registration in that register under that title shall be conditional on his compliance, during such period not exceeding three years as may be specified in the direction, with such conditions specified in the direction as the Practice Committee think fit to impose for the protection of the public or in his interests; or
- (d) that he shall be reprimanded in connection with any conduct or action of his which was the subject of the allegation.

(8) A direction under subsection (7)(a) that a person's name shall be erased from registration in the dental care professionals register under a particular title shall not be given following a determination that that person's fitness to practise as a member of the profession, or class of members of a profession, to which that title applies is impaired solely on the ground mentioned in section 36N(2)(c) (adverse physical or mental health).

(9) Where a Practice Committee give a direction under subsection (7), the registrar shall forthwith serve on the person concerned notification of the direction and (except in the case of a direction under paragraph (d) of that subsection) of his right to appeal against it under section 36S.

(10) Where a Practice Committee make a determination under subsection (1) as to a person's fitness to practise as a member of a profession, or class of members of a profession, to which a particular title applies, they shall, at the same time, revoke any interim order which has been made under section 36V—

- (a) in consequence of the allegation, or allegations, to which that determination relates; and
- (b) in relation to that person's registration in the dental care professionals register under that title.

(11) The revocation of an interim order under subsection (10) shall take effect—

- (a) in the case of a determination that the person's fitness to practise is not impaired, forthwith;
- (b) in the case of a direction given under paragraph (d) of subsection (7), forthwith; and

- (c) in the case of a direction given under paragraph (a), (b) or (c) of subsection (7), subject to section 36U(5), from the time when—
  - (i) any direction given under those paragraphs takes effect in accordance with section 36T,
  - (ii) an appeal under section 36S against the decision giving such a direction is determined under section 36S(6)(b) or (c), or
  - (iii) following a decision on appeal to remit the case to a Practice Committee, the Practice Committee dispose of the case.

### **Resumed hearings**

**36Q.**—(1) Where a Practice Committee have given a direction under section 36P(7)(b) or subsection (2)(d) or (3) of this section that a person’s registration in the dental care professionals register under a particular title should be suspended, they may direct, in relation to that title—

- (a) that the suspension shall be terminated;
- (b) that the current period of suspension shall be extended for such further period, specified in the direction and not exceeding twelve months, beginning with the date on which it would otherwise expire;
- (c) that the suspension shall be terminated and the person’s registration in the dental care professionals register under that title shall be conditional on his compliance, during such period not exceeding three years as may be specified in the direction, with such conditions specified in the direction as the Practice Committee think fit to impose for the protection of the public or in his interests; or
- (d) that the person’s registration in the dental care professionals register under that title shall be suspended indefinitely, if—
  - (i) the period of suspension will, on the date on which the direction takes effect, have lasted for at least two years, and
  - (ii) the direction is made not more than two months before the date on which the period of suspension would otherwise expire.

(2) Where a Practice Committee have given a direction under section 36P(7)(c), subsection (1)(c) or (5)(c) of this section or section 36R(6)(b) imposing conditions on a person’s registration in the dental care professionals register under a particular title, they may give one or more of the following directions in relation to that title—

- (a) a direction that the registration shall cease to be conditional from a date specified in the direction;
  - (b) a direction that the current period of conditional registration shall be extended for such further period, specified in the direction and not exceeding three years, beginning with the date on which it would otherwise expire;
  - (c) a direction that one or more of the conditions imposed on the registration shall be varied or revoked, or that those conditions shall be added to, as specified in the direction; or
  - (d) a direction that the person’s registration in the dental care professionals register under that title shall be suspended during such period not exceeding twelve months as may be specified in the direction.
- (3) Where a Practice Committee—
- (a) have given a direction under section 36P(7)(c), subsection (1)(c), (2)(b) or (c) or (5)(c) of this section or section 36R(6)(b) imposing conditions on a person’s



registration, or extending a period of conditional registration, in the dental care professionals register under a particular title, or

- (b) have made an order under section 36V(4)(b) for interim conditional registration in relation to a particular title,

and the Practice Committee determine that at any time during the period for which that direction or order has effect the person has failed to comply with any condition imposed on his registration, the Practice Committee may direct, in relation to that title, that the person's registration in the dental care professionals register shall be suspended during such period not exceeding twelve months as may be specified in the direction.

(4) Where a Practice Committee have given a direction under subsection (1)(d) that a person's registration in the dental care professionals register under a particular title is to be suspended indefinitely, they must review the direction if—

- (a) the person requests them to do so;
- (b) at least two years have elapsed since the date on which the direction took effect; and
- (c) if the direction has previously been reviewed under this subsection, at least two years have elapsed since the date of the last such review decision.

(5) On such a review a Practice Committee may, in relation to the title in question—

- (a) direct that the suspension shall be terminated;
- (b) confirm the direction to suspend the person's registration under that title indefinitely; or
- (c) direct that the suspension shall be terminated and the person's registration in the dental care professionals register under that title shall be conditional on his compliance, during such period not exceeding three years as may be specified in the direction, with such conditions specified in the direction as the Practice Committee think fit to impose for the protection of the public or in his interests.

(6) Where a Practice Committee give a direction under this section, the registrar shall forthwith serve on the person concerned notification of the direction and (except in the case of a direction under subsection (1)(a), (2)(a) or (5)(a) or a direction under subsection (2)(c) that a condition or conditions shall be revoked) of his right to appeal against it under section 36S.

### **Restoration of names to the dental care professionals register following erasure under section 36P**

**36R.—(1)** A person whose name has been erased from registration in the dental care professionals register under a particular title in accordance with a direction under section 36P(7)(a) may apply to the registrar for his name to be restored to that register under that title.

(2) No application under this section for the restoration of a person's name to the dental care professionals register shall be made—

- (a) before the end of the period of five years beginning with the date on which the direction for erasure took effect; or
- (b) within twelve months of the date on which an earlier application for the restoration of his name under the title in question was made.

(3) The registrar shall refer an application to the Professional Conduct Committee.

(4) When considering an application, the Professional Conduct Committee may, if they consider it necessary and appropriate in a particular case, direct the applicant to do one or both of the following—

- (a) produce such evidence as to his fitness to practise as a member of the profession complementary to dentistry, or class of members of such a profession, in question as the Professional Conduct Committee shall specify;
- (b) meet such further requirements, including requirements as to education and training, as the Professional Conduct Committee shall specify.

(5) An application shall not be granted unless the applicant satisfies the Professional Conduct Committee—

- (a) that he is fit to practise as a member of the profession complementary to dentistry, or class of members of such a profession, in question;
- (b) of Matter D within the meaning of section 36C;
- (c) that he meets the requirements of any rules made under section 36Z2 which apply to his case; and
- (d) that he meets any other requirements imposed in a direction under subsection (4) (b).

(6) Where the Professional Conduct Committee grant an application, they may give one or both of the following directions—

- (a) a direction that the restoration of a person's name to the dental care professionals register under the title in question shall be conditional on his satisfying the registrar that he meets the requirements of section 36L (insurance) in relation to that title;
- (b) a direction that a person's registration in that register under the title in question shall be conditional on his compliance, during such period not exceeding three years as may be specified in the direction, with such conditions specified in the direction as the Professional Conduct Committee think fit to impose for the protection of the public or in his interests.

(7) If the Professional Conduct Committee refuse to grant an application, the registrar shall forthwith serve on the applicant notification of the Professional Conduct Committee's decision and of his right to appeal against it under section 36S.

(8) If the Professional Conduct Committee grant an application, the registrar shall forthwith serve on the applicant notification of the Professional Conduct Committee's decision, and, in a case where a direction has been given under subsection (6)(b), of his right to appeal against that direction under section 36S.

(9) Where, during the same period of erasure from registration in the dental care professionals register under a particular title, a second or subsequent application relating to that title under this section by the same person is unsuccessful, the Professional Conduct Committee may direct that his right to make any further such applications shall be suspended indefinitely.

(10) If the Professional Conduct Committee give a direction under subsection (9), the registrar shall forthwith serve on the person concerned notification of the direction and of his right to appeal against it under section 36S.

(11) Any person in respect of whom a direction has been given under subsection (9) may, after the end of the period of three years beginning with the date on which the direction took effect, apply to the registrar for the direction to be reviewed by the Professional Conduct Committee and, thereafter, may make further applications for review; but no such

application may be made before the end of the period of three years beginning with the date of the most recent review decision.

- (12) On a review under subsection (11), the Professional Conduct Committee may—
- (a) confirm the direction under subsection (9); or
  - (b) direct that the person concerned may make an application under subsection (1).

## **Appeals**

**36S.**—(1) The following decisions are appealable decisions for the purposes of this section—

- (a) a decision of the Professional Conduct Committee under section 36I—
    - (i) giving a direction under subsection (3) of that section for erasure of a person's name from the dental care professionals register under all titles under which he is registered in that register, or
    - (ii) refusing an application under subsection (6) of that section to restore a person's name to that register under a particular title, or refusing to so restore his name until the end of a specified period;
  - (b) a decision of a Practice Committee under section 36P or 36Q giving, in relation to a particular title, a direction for erasure, for suspension, for conditional registration or for varying or adding to the conditions imposed by a direction for conditional registration; and
  - (c) a decision of the Professional Conduct Committee under section 36R—
    - (i) refusing to grant an application to restore a person's name to the dental care professionals register under a particular title,
    - (ii) giving, in relation to a particular title, a direction for conditional registration under subsection (6)(b) of that section, or
    - (iii) giving a direction under subsection (9) of that section in respect of a particular title suspending indefinitely the right to make further applications under that section.
- (2) In subsection (1)—
- (a) a reference to a direction for suspension includes a reference to a direction extending a period of suspension and a direction for indefinite suspension; and
  - (b) a reference to a direction for conditional registration includes a reference to a direction extending a period of conditional registration.
- (3) Subject to subsection (4), a person in respect of whom an appealable decision has been made may, before the end of the period of 28 days beginning with the date on which notification of the decision was served under section 36I(7), 36P(9), 36Q(6) or 36R(7), (8) or (10), appeal against the decision to the relevant court.
- (4) Where—
- (a) any notification of a decision required to be served on a person under any of the provisions specified in subsection (3) is served by sending it to him by post, and
  - (b) the registrar is satisfied, on the application of that person, that he did not receive the notification within the period of 14 days beginning with the day on which the decision was made,

the registrar may, if he thinks fit, by authorisation in writing extend the period of time within which an appeal under this section may be brought.

- (5) In subsection (3) “the relevant court”—
- (a) in the case of a person whose address in the dental care professionals register is (or if he were registered would be) in Scotland, means the Court of Session;
  - (b) in the case of a person whose address in that register is (or if he were registered would be) in Northern Ireland, means the High Court in Northern Ireland; and
  - (c) in the case of any other person, means the High Court in England and Wales.
- (6) On an appeal under this section, the court may—
- (a) dismiss the appeal,
  - (b) allow the appeal and quash the decision appealed against,
  - (c) substitute for the decision appealed against any other decision which could have been made by the Professional Conduct Committee, the Professional Performance Committee or (as the case may be) the Health Committee, or
  - (d) remit the case to the Professional Conduct Committee, the Professional Performance Committee or (as the case may be) the Health Committee to dispose of the case under section 36I, 36P, 36Q or 36R in accordance with the directions of the court,

and may make such order as to costs (or, in Scotland, expenses) as it thinks fit.

(7) The Council may appear as respondent on any appeal under this section; and for the purpose of any order as to costs (or, in Scotland, expenses) in relation to any such appeal the Council shall be deemed to be a party to it, whether they appear on the hearing of the appeal or not.

**Taking effect of directions for erasure, suspension, conditional registration etc.**

**36T.**—(1) This section applies to—

- (a) a direction given by the Professional Conduct Committee under section 36I(3) for erasure of a person’s name from the dental care professionals register under all titles under which he is registered in that register;
- (b) a direction, in relation to a particular title, for erasure, suspension, conditional registration or variation of or addition to the conditions of registration given by a Practice Committee under section 36P or 36Q; and
- (c) a direction, in relation to a particular title, for conditional registration given by the Professional Conduct Committee under section 36R(6)(b).

(2) A direction to which this section applies shall take effect—

- (a) where no appeal under section 36S is brought against the decision giving the direction within the period of time specified in subsection (3) of that section, on the expiry of that period;
- (b) where such an appeal is brought but is withdrawn or struck out for want of prosecution, on the withdrawal or striking out of the appeal; or
- (c) where such an appeal is brought and is not withdrawn or struck out for want of prosecution, on the dismissal of the appeal.

(3) Where the period of time for appealing against a decision giving a direction is extended under section 36S(4)—

- (a) subsection (2) shall apply to the direction as if the reference in paragraph (a) of that subsection to the period of time specified in section 36S(3) were a reference to that period as so extended, and

- (b) if the authorisation is given after the expiry of the period of time specified in section 36S(3), the direction shall be deemed not to have taken effect on the expiry of that period,

and any reference in this Act to the time when such a direction takes effect in accordance with this section shall be construed accordingly.

- (4) In this section—
  - (a) a reference to a direction for suspension includes a reference to a direction extending a period of suspension and a direction for indefinite suspension; and
  - (b) a reference to a direction for conditional registration includes a reference to a direction extending a period of conditional registration.

### **Orders for immediate suspension and immediate conditional registration**

**36U.**—(1) On giving a direction, in relation to a particular title, for erasure or for suspension under section 36I(3), section 36P(7)(a) or (b) or section 36Q(2)(d) or (3) in respect of any person, the Practice Committee giving the direction, if satisfied that to do so is necessary for the protection of the public or is otherwise in the public interest, or is in the interests of that person, may order that his registration under that title shall be suspended forthwith in accordance with this section.

(2) On giving a direction, in relation to a particular title, for conditional registration under section 36P(7)(c), section 36Q(1)(c) or (5)(c) or section 36R(6)(b) in respect of any person, the Practice Committee giving the direction, if satisfied that to do so is necessary for the protection of the public or is otherwise in the public interest, or is in the interests of that person, may order that his registration under that title shall be made conditional forthwith in accordance with this section.

(3) Where, on the giving of a direction, an order under subsection (1) or (2) is made in respect of a person, his registration in the dental care professionals register under the title in question shall, subject to subsection (6), be suspended or made conditional, as the case may be, from the time when the order is made until the time when—

- (a) the direction takes effect in accordance with section 36T;
- (b) an appeal under section 36S against the decision giving the direction is determined under section 36S(6)(b) or (c); or
- (c) following a decision on appeal to remit the case to a Practice Committee, the Practice Committee dispose of the case.

(4) Where a Practice Committee make an order under subsection (1) or (2), the registrar shall forthwith serve on the person in respect of whom it is made notification of the order and of his right to make an application under subsection (7).

(5) Where a Practice Committee make an order under subsection (1) or (2) in respect of a person, and an interim order under section 36V in respect of that person has been revoked by virtue of section 36P(10), that revocation shall take effect, subject to subsection (6), from the time when the order under subsection (1) or (2) is made.

(6) If, when an order under subsection (1) or (2) is made, the person in respect of whom it is made is neither present nor represented at the proceedings, subsections (3) and (5) shall have effect as if, in each case, for the reference to the time when the order is made, there were substituted a reference to the time when notification of the order is served under subsection (4).

(7) A person in respect of whom an order under subsection (1) or (2) is made may apply to the court for an order terminating any suspension imposed under subsection (1) or any

conditional registration imposed under subsection (2), and the decision of the court on any such application shall be final.

- (8) In subsection (7) “the court”—
- (a) in the case of a person whose address in the dental care professionals register is in Scotland, means the Court of Session;
  - (b) in the case of a person whose address in that register is in Northern Ireland, means the High Court in Northern Ireland; and
  - (c) in the case of any other person, means the High Court in England and Wales.

### **Interim orders**

**36V.**—(1) This section applies to the Professional Conduct Committee, the Professional Performance Committee, the Health Committee and the Interim Orders Committee, and any reference in this section to a “Committee” is a reference to any of those Committees.

(2) The Interim Orders Committee may exercise functions under this section only in relation to a person whose case has been referred to them—

- (a) by the registrar under section 36N(5)(b);
- (b) by the Investigating Committee under section 36O(4)(b) or (6)(b); or
- (c) by a Practice Committee in accordance with rules under paragraph 7(1)(c) of Schedule 4B.

(3) A Practice Committee may exercise functions under this section only in relation to a person whose case has been referred to them—

- (a) by the Investigating Committee under section 36O(4)(a) or (6)(a); or
- (b) by another Practice Committee in accordance with rules under paragraph 7(1)(a) of Schedule 4B.

(4) Where a Committee are satisfied that it is necessary for the protection of the public or is otherwise in the public interest, or is in the interests of the person concerned, for the person’s registration in the dental care professionals register under a particular title to be suspended or to be made subject to conditions, the Committee may make—

- (a) an order that his registration in that register under that title shall be suspended during such period not exceeding 18 months as may be specified in the order (an “interim suspension order”); or
- (b) an order that his registration in that register under that title shall be conditional on his compliance, during such period not exceeding 18 months as may be specified in the order, with such conditions so specified as the Committee think fit to impose (an “order for interim conditional registration”).

(5) Subject to subsection (11), where a Committee have made an interim suspension order or an order for interim conditional registration they—

- (a) shall review it within the period of six months beginning with the date on which the order was made, and shall thereafter, for so long as the order continues in force, further review it—
  - (i) before the end of the period of six months beginning with the date of the decision of the immediately preceding review, or
  - (ii) if after the end of the period of three months beginning with the date of the decision of the immediately preceding review the person concerned requests an earlier review, as soon as practicable after that request; and

- (b) may review it where new evidence relevant to the order has become available after the making of the order.
- (6) Where an interim suspension order or an order for interim conditional registration has been made under any provision of this section (including this subsection) in relation to a person's registration in the dental care professionals register under a particular title, the Committee that made the order may, in relation to that title—
  - (a) revoke the order;
  - (b) make an order adding to, varying or revoking any condition imposed by the order;
  - (c) if satisfied that to do so is necessary for the protection of the public or is otherwise in the public interest, or is in the interests of the person concerned, replace an interim suspension order with an order for interim conditional registration having effect for the remainder of the term of the former; or
  - (d) if satisfied that to do so is necessary for the protection of the public or is otherwise in the public interest, or is in the interests of the person concerned, replace an order for interim conditional registration with an interim suspension order having effect for the remainder of the term of the former.
- (7) If a Committee make an order under any provision of this section—
  - (a) the registrar shall forthwith serve notification of the order on the person to whose registration it relates; and
  - (b) that order shall take effect from the time on which the notification mentioned in paragraph (a) is served.
- (8) The Council may apply to the court for an order made by a Committee under subsection (4) or (6) to be extended, and may apply again for further extensions.
- (9) On each such application the court may extend (or further extend) for up to twelve months the period for which the order has effect.
- (10) Any reference in this section to an interim suspension order, or to an order for interim conditional registration, includes a reference to such an order as so extended.
- (11) For the purposes of subsection (5) the first review after the court's extension of an order made by a Committee or after a replacement order made by a Committee under subsection (6)(c) or (d) shall take place—
  - (a) if the order (or the order which has been replaced) had not been reviewed at all under subsection (5), within the period of six months beginning with the date on which the court ordered the extension or on which a replacement order under subsection (6)(c) or (d) was made; and
  - (b) if it had been reviewed under subsection (5), within the period of three months beginning with that date.
- (12) Where an interim order has effect under any provision of this section in relation to a person's registration in the dental care professionals register under a particular title, the court may, in relation to that title—
  - (a) in the case of an interim suspension order, terminate the suspension,
  - (b) in the case of an order for interim conditional registration, revoke the order or revoke, vary or add to any condition imposed by the order,
  - (c) in either case, substitute for the period specified in the order (or in an order extending it) some other period which could have been specified in the order (or in the order extending it) when it was made,and the decision of the court on any application under this subsection shall be final.

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**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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(13) In this section “the court” has the meaning given by section 36U(8).”.