

SCHEDULE 3

Article 30(2)

Insertion of Schedule 4A

After Schedule 4 insert—

“SCHEDULE 4A

Section 36J

Registration appeals: dental care professionals register

1. In this Schedule—

“appealable registration decision” shall be construed in accordance with paragraphs 2 and 3(2);

“person concerned” means a person notified under paragraph 3(1) of an appealable registration decision made in respect of him, or, as the case may be, an applicant in respect of whom an appealable registration decision is treated as having been made by virtue of paragraph 3(2); and

“the requisite period”, in relation to a decision of a kind specified in paragraph 2(1)(a), (c), (e), (f) or (h), means the period of four months beginning with the date when the registrar is first in possession of sufficient information to make the decision.

2.—(1) The following decisions are appealable registration decisions for the purposes of this Schedule—

- (a) a decision not to register a person’s name under a particular title in the dental care professionals register under section 36C (qualifications for registration) on the grounds that any of the requirements of that section are not met;
- (b) a decision under section 36H(3) (erasure of names of those who have ceased to practise) to erase a person’s name from the dental care professionals register;
- (c) a decision under section 36H(4) not to restore a person’s name to the dental care professionals register under a particular title;
- (d) a decision under section 36I(1) (erasure on grounds of error) to erase an entry relating to a person from the dental care professionals register;
- (e) a decision under section 36L(9)(a), (b) or (c) (insurance) not to register a person’s name in the dental care professionals register, not to restore his name to that register, or to erase his name from registration in that register, under a particular title;
- (f) a decision under section 36L(10) not to restore a person’s name to the dental care professionals register under a particular title;
- (g) a decision under section 36Z1(2) (professional training and development requirements) to erase a person’s name from registration in the dental care professionals register under a particular title; and
- (h) a decision under section 36Z1(3) not to restore a person’s name to the dental care professionals register under a particular title.

(2) A decision is not an appealable registration decision for the purposes of this Schedule if it is a decision taken by reason only that the person failed to—

- (a) pay any fee prescribed by regulations made under section 36F; or
- (b) make an application as required under this Act or any rules made under it.

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### **Notification of appealable registration decisions**

3.—(1) Where an appealable registration decision is made in respect of a person, the registrar shall forthwith serve on that person written notification of—

- (a) the decision;
- (b) the reasons for the decision; and
- (c) that person’s right to appeal under paragraph 4.

(2) Where an applicant has not been served with notification of a decision in respect of an application for registration or restoration of a name mentioned in paragraphs (a), (c), (e), (f) or (h) of paragraph 2(1) within the requisite period, that omission shall be treated as a decision not to register or, as the case may be, restore the applicant’s name, which is an appealable registration decision for the purposes of this Schedule.

### **Appeals from an appealable registration decision**

4.—(1) A person concerned may appeal to the Registration Appeals Committee against—

- (a) the appealable registration decision made in respect of him of which he was notified under paragraph 3(1); or
- (b) the appealable registration decision treated as having been made in respect of him by virtue of paragraph 3(2).

(2) An appeal under sub-paragraph (1) shall be made by giving notice of appeal to the registrar.

(3) Notice of appeal in a case within sub-paragraph (1)(a) must be given before the end of the period of 28 days beginning with the date on which notification of the decision was served under paragraph 3(1), subject to any extension of time under paragraph 5.

(4) Notice of appeal in a case within sub-paragraph (1)(b) must be given before the end of the period of 28 days following the end of the requisite period.

(5) In the case of an appealable registration decision which is a decision to erase a person’s name from registration in the dental care professionals register under a particular title, where—

- (a) no appeal under this paragraph is brought against the decision within the period of time specified in sub-paragraph (3), or
- (b) an appeal under this paragraph is brought but is withdrawn or struck out for want of prosecution,

that decision shall take effect on the expiry of that period or, as the case may be, on the withdrawal or striking out of that appeal.

(6) For the purposes of considering an appeal under this paragraph, the Registration Appeals Committee may make such inquiries as they consider appropriate.

(7) Schedule 4B (proceedings before the Investigating Committee, the Interim Orders Committee and Practice Committees: dental care professionals) applies to proceedings under this Schedule before the Registration Appeals Committee with the following modifications—

- (a) in paragraph 1—
  - (i) omit sub-paragraph (1), and
  - (ii) in sub-paragraph (2)(b) for “the Council” substitute “the registrar”;
- (b) references to a Committee shall be read as references to the Registration Appeals Committee;
- (c) in paragraph 2—

- (i) omit sub-paragraph (1)(b), and
  - (ii) in sub-paragraph (2)(g), omit “the person (if any) making the allegation and”;  
and
  - (d) omit paragraph 7.
- (8) In disposing of an appeal under this paragraph, the Registration Appeals Committee may determine to—
- (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 registrar; or
  - (d) remit the case to the registrar to dispose of in accordance with the directions of the Registration Appeals Committee.
- (9) In the case of an appealable registration decision which is a decision to erase a person’s name from registration in the dental care professionals register under a particular title, where the Registration Appeals Committee dispose of an appeal brought under this paragraph by making a determination under sub-paragraph (8)(a), (c) or (d), that decision shall take effect—
- (a) where no appeal under paragraph 6 is brought against the determination of the Registration Appeals Committee within the period of time specified in paragraph 6(1), on the expiry of that period;
  - (b) where an appeal under paragraph 6 is brought but is withdrawn or struck out for want of prosecution, on the withdrawal or striking out of that appeal; or
  - (c) where an appeal under paragraph 6 is brought and dismissed under paragraph 6(2)(a), on the dismissal of that appeal.
- (10) Where the Registration Appeals Committee make a determination on an appeal under this Schedule, they shall, as soon as reasonably practicable—
- (a) inform the registrar of, and serve on the person concerned notification of, the Committee’s determination on the appeal and of the reasons for that determination; and
  - (b) if that determination is not a determination under sub-paragraph (8)(b), serve on the person concerned notification of his right of appeal under paragraph 6.

### **Extension of time for appealing**

5. Where—
- (a) any notification of a decision required under paragraph 3(1) to be served on a person 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 time for giving notice of appeal under paragraph 4(3).

### **Appeals from the Registration Appeals Committee**

6. Where—
- (a) the Registration Appeals Committee determine an appeal under paragraph 4, and

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- (b) they do not determine under paragraph 4(8)(b) to allow the appeal and quash the decision appealed against,

the person concerned may, before the end of the period of 28 days beginning with the date on which notification of the determination was served on him under paragraph 4(10), appeal against the determination to the relevant court.

(2) On an appeal under this paragraph from the Registration Appeals Committee, the relevant court may—

- (a) dismiss the appeal,
- (b) allow the appeal and quash the determination appealed against,
- (c) substitute for the determination appealed against any other determination which could have been made by the Registration Appeals Committee, or
- (d) remit the case to the Registration Appeals Committee to dispose of in accordance with the directions of the relevant court,

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

(3) In this paragraph “the relevant court” means—

- (a) where the person concerned is registered in the dental care professionals register, and his address in that register is in Scotland, the sheriff in whose sheriffdom that address is situated;
- (b) where the person concerned is not registered in that register, but his address would (if he were to be registered) be in Scotland, the sheriff in whose sheriffdom that address is situated; and
- (c) in any other case, the county court.”.