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STATUTORY INSTRUMENTS

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**2007 No. 3101**

The European Qualifications (Health and  
Social Care Professions) Regulations 2007

PART 7

DENTISTS AND PROFESSIONS COMPLEMENTARY  
TO DENTISTRY: DENTISTS ACT 1984

**Amendment of Dentists Act 1984**

**109.** The Dentists Act 1984(1) is amended in accordance with this Part.

**Insertion of section 12A**

**110.** After section 12 insert—

**“Degrees and licences in dentistry**

**12A.—**(1) A dental authority may grant a UK diploma in dentistry to a person only if the authority is satisfied that the person has successfully completed basic dental training.

(2) In this section—

“basic dental training” means dental training that meets, or under article 22(a) of the Directive (part-time training) is to be treated as meeting, the requirements of article 34 of the Directive (basic dental training);

“UK diploma in dentistry” means—

- (a) a degree in dentistry that gives its holder the qualification of Bachelor of Dental Surgery (whether abbreviated as BDS or B.Ch.D.), or
- (b) a licence in dentistry that gives its holder the qualification of Licentiate in Dental Surgery.”.

**Amendment of section 14**

**111.** In section 14(2) (the dentists register and the registrar), after subsection (1) insert—

“(1A) The register shall consist of three lists, namely—

- (a) the principal list, which shall contain particulars of persons who under section 15 are entitled to be registered in the register;
- (b) the list of temporary registrants, which shall contain particulars of persons who under section 17 are directed to be registered in the register; and

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(1) 1984 c.24.

(2) Section 14 was substituted by S.I. 2005/2011.

- (c) the list of visiting dentists from relevant European States, which shall contain particulars of persons who under Schedule 4 are entitled to be registered in the register.”.

### **Amendment of section 15**

**112.** In section 15(3) (qualification for registration in the dentists register)—

- (a) in subsection (1), for paragraph (b) substitute—
- “**(b)** any exempt person who holds an appropriate European diploma;
- (ba)** any exempt person—
- (i) whose case falls within regulation 3(9)(a) or (e) of the General Systems Regulations,
- (ii) to whom regulations 20 to 26 of those Regulations apply by reason of the operation of regulation 3(4) of those Regulations, and
- (iii) who is permitted to pursue the profession of dentistry in the United Kingdom by virtue of Part 3 of those Regulations (having, in particular, successfully completed any adaptation period, or passed any aptitude test, that he may be required to undertake pursuant to that Part of those Regulations); and”;
- (b) in subsection (2), omit the definition of “national”;
- (c) omit subsection (2A);
- (d) in subsection (3), for “paragraph (a) or (b) of subsection (1)” substitute “paragraph (a), (b) or (ba) of subsection (1)”;
- (e) in subsection (4)(d), for sub-paragraph (i) substitute—
- “**(i)** is an exempt person, or”;
- (f) for subsections (4A) and (4B) substitute—
- “**(4A)** Subsections (4B) to (4BC) apply in relation to an exempt person (“A”) who applies for registration under paragraph (b) or (ba) of subsection (1).
- (4B)** For the purposes of subsection (3)(b), the registrar shall accept as sufficient evidence of A’s good character a certificate which—
- (a) attests to A’s good character or good repute; and
- (b) is issued by a competent authority in A’s attesting State.
- (4BA)** If no such certificate is issued by a competent authority in A’s attesting State, for the purposes of subsection (3)(b) the registrar shall accept as sufficient evidence of A’s good character a certificate—
- (a) attesting to the authenticity of a declaration on oath made by A—
- (i) before a competent judicial or administrative authority, notary or qualified professional body of A’s attesting State, and
- (ii) attesting to A’s good character; and
- (b) issued by the authority, notary or body referred to in paragraph (a)(i).
- In this subsection, “declaration on oath” includes a solemn declaration.
- (4BB)** For the purposes of subsection (3)(c), the registrar shall accept as sufficient evidence of A’s good health a certificate which—

- (a) attests to A's good physical and mental health; and
  - (b) is required of a person who wishes to practise dentistry in A's attesting State.
- (4BC) If no such certificate is required of persons who wish to practise dentistry in A's attesting State, for the purposes of subsection (3)(c) the registrar shall accept as sufficient evidence of A's good health a certificate which—
- (a) attests to A's good physical and mental health; and
  - (b) is issued by a competent authority in A's attesting State.
- (4BD) In subsections (4B) to (4BC) the "attesting State", in relation to A, is—
- (a) the relevant European State in which A obtained his dental qualification; or
  - (b) (if different) the relevant European State from which A comes to the United Kingdom.";
- (g) in subsection (4C), for "subsection (4A) or (4B)" substitute "subsection (4B), (4BA), (4BB) or (4BC)"; and
- (h) omit subsection (7).

#### **Amendment of section 16**

**113.** In section 16 (supplementary provisions as to registration of holders of overseas diplomas)

- (a) in subsection (2A)(4)—
  - (i) for "a person who is a national of an EEA State (or is treated as such for the purposes of section 15(1)(b))" substitute "an exempt person", and
  - (ii) for paragraph (b) substitute—
    - "(b) if the person holds a dental qualification which—
      - (i) was granted otherwise than in a relevant European State, but
      - (ii) has been accepted by a relevant European State, other than the United Kingdom, as qualifying him to practise as a dentist in that State,shall take that acceptance into account; and"; and
- (b) after subsection (2A) insert—
  - "(2B) In the case of an exempt person who holds a dental qualification which—
    - (a) was granted otherwise than in a relevant European State, and
    - (b) has not previously been accepted by a relevant European State as qualifying him to practise as a dentist in that State,

the Council shall not determine that they are satisfied that that person has the requisite knowledge and skill as mentioned in section 15(4)(c) above unless the dental qualification is evidence of dental training that meets, or under article 22(a) of the Directive (part-time training) is to be treated as meeting, the requirements of article 34 of the Directive (basic dental training)."

#### **Amendment of section 17**

**114.** In section 17(5) (temporary registration)—

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(4) Subsection (2A) was inserted by [S.I. 1998/811](#) and amended by [S.I. 2003/3148](#).  
(5) Section 17 was amended by [S.I. 1998/811](#) and [2003/3148](#).

- (a) in subsection (2)(d), for sub-paragraph (i) substitute—
  - “(i) is an exempt person, or”; and
- (b) in subsection (3A)—
  - (i) for “a person who is a national of an EEA State (or a person who is treated as such for the purposes of section 15(1)(b))” substitute “an exempt person”, and
  - (ii) for “another EEA State” substitute “a relevant European State other than the United Kingdom”.

### **Amendment of section 18**

#### **115.** In section 18(6) (procedure for registration)—

- (a) in subsection (1), for “Subject to section 17 above and subsection (3) below, any right to registration” substitute “Subject to subsection (3) below, any right to registration under section 15 above”;
- (b) in subsection (2)—
  - (i) in paragraph (b), for “registration; and” substitute “registration.”, and
  - (ii) omit paragraph (c); and
- (c) after subsection (2) insert—
 

“(2A) An exempt person (“A”) applying to be registered in the register shall (in addition to the document and statement mentioned in subsection (2)) produce or send to the registrar—

  - (a) if A is applying to be registered in exercise of entitlement under section 15(1)(b), (ba) or (c) and is a national of a relevant European State, proof of A’s nationality;
  - (b) if A is applying to be registered in exercise of entitlement under section 15(1)(b), (ba) or (c) and is not a national of a relevant European State, proof of the Community right by virtue of which A is an exempt person;
  - (c) if A—
    - (i) is applying to be registered in exercise of entitlement under section 15(1)(b),
    - (ii) holds a diploma listed in Annex V, point 5.3.2 of the Directive (evidence of basic formal qualifications of dental practitioners), and
    - (iii) has successfully completed dental training that meets, or under article 22(a) of the Directive (part-time training) is to be treated as meeting, the requirements of article 34 of the Directive (basic dental training),
 a certificate as mentioned in subsection (2B).

(2B) The certificate—

  - (a) must be a certificate issued by a competent authority in A’s attesting State (as defined by section 15(4BD)); and
  - (b) must certify that the document produced or sent by A under subsection (2)(a) is a diploma listed in relation to that State in Annex V, point 5.3.2 of the Directive.”.

### **Amendment of section 19**

#### **116.** In section 19(7) (regulations with respect to the register)—

(6) Section 18 was amended by S.I. 1996/1496 and 2005/2011.

(7) Section 19 was amended by S.I. 2001/3926 and 2005/2011.

- (a) in subsection (1), for “The Council” substitute “Subject to subsection (1A), the Council”; and
- (b) after subsection (1) insert—
  - “(1A) Regulations under this section shall not prescribe fees in respect of registration in the list mentioned in section 14(1A)(c).”.

### **Substitution of section 21A**

**117.** For section 21A(8) substitute—

#### **“Notification of results of application**

**21A.—(1)** This section applies where a person (“A”) makes an application to be registered in the register in exercise of entitlement under section 15.

(2) The registrar, within the period of one month beginning with the date of receipt of the application, must—

- (a) acknowledge receipt of the application; and
- (b) inform A of any missing document required for the purposes of the application.

(3) The registrar must notify A of the result of the application—

- (a) in the case of an application for registration in exercise of entitlement under section 15(1)(a), (b) or (c), within the period of three months beginning with the relevant date;
- (b) in the case of an application for registration in exercise of entitlement under section 15(1)(ba), within the period of four months beginning with the relevant date.

(4) The “relevant date”, in relation to an application, is—

- (a) the date when the registrar receives the application; or
- (b) if any document required for the purposes of the application is missing when the registrar receives the application, the date on which the registrar first has all the documents required for those purposes.”.

### **Insertion of section 34AA**

**118.** After section 34A insert—

#### **“Limits on section 34A as respects visiting dentists from relevant European States**

**34AA.—(1)** Subsections (1) and (2) of section 34A(9), so far as relating to a person (“P”) who is a registered dentist only as a result of being in the list mentioned in section 14(1A)(c), have effect subject to, respectively, subsections (2) and (3) of this section.

(2) Rules made under section 34A(1)—

- (a) may not impose requirements on P if P is required to undertake, in P’s home State, professional training and development in relation to the profession of dentistry; and
- (b) where they impose requirements on P—

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(8) Section 21A was inserted by [S.I. 1998/811](#).

(9) Section 34A was inserted by [S.I. 2001/3926](#) but is prospectively substituted by [S.I. 2005/2011](#) except that the 2005 version, for the purpose of the exercise of power to make rules, is in force alongside the 2001 version.

- (i) shall take account of the fact that P is a fully qualified dentist in P's home State, and
- (ii) shall specify that professional training and development which P is required to undertake by the requirements may be undertaken outside the United Kingdom.

(3) The registrar's power under section 34A(2) is exercisable in relation to P only if it also appears to the registrar that, in the circumstances of the case, erasure from the register is an appropriate and proportionate sanction in view of P's continued lawful establishment in dental practice in P's home State.

(4) In this section "home State", in relation to P, means the relevant European State in which P is lawfully established in dental practice."

### **Amendment of section 35**

**119.** In section 35(10) (effect on registration of disqualification in another member State)—

- (a) in the side-note, and in the italic heading preceding the section, for "another member" substitute "a relevant European";
- (b) in subsections (1) and (2), for "an EEA State" substitute "a relevant European State";
- (c) in subsections (1), (3) and (5), after "section 15(1)(b)" insert "or (ba)"; and
- (d) in subsection (2)(b), after "he is prohibited" insert "(whether on a permanent or temporary basis)".

### **Amendment of section 36**

**120.** In section 36(11) (visiting EEA practitioners)—

- (a) in the side-note, and in the italic heading preceding the section, for "Visiting EEA practitioners" substitute "Visiting dentists from relevant European States";
- (b) for "EEA" substitute "relevant European"; and
- (c) omit "without being registered under this Act".

### **Insertion of sections 36ZA and 36ZB**

**121.** After section 36 insert—

*"The Directive: designation of competent authority etc.*

#### **The Directive: designation of competent authority etc.**

**36ZA.**—(1) The Council is designated as the competent authority in the United Kingdom for the purposes of the Directive so far as relating to dentistry(12).

(2) The designation under subsection (1)—

- (a) does not extend to matters relating to training to be, or qualifications or practice as, a specialist in orthodontics or in oral surgery;

(10) Section 35 was amended by [S.I. 1996/1496](#) and [2005/2011](#).

(11) Section 36 was amended by [S.I. 1996/1496](#).

(12) See [S.I. 2007/2781](#), regulation 4 and Part 1 of Schedule 1, for the designation of the Council as the competent authority in the United Kingdom for the purposes of the Directive so far as relating to the professions pursued by dental hygienists, dental therapists, clinical dental technicians, dental nurses, dental technicians and orthodontic therapists.

(b) does not extend to the awarding of UK diplomas in dentistry.

(3) Accordingly, the Council shall in the United Kingdom carry out (in particular) the functions specified in Schedule 4ZA so far as those functions relate to matters other than specialist matters (as respects those functions so far as relating to specialist matters, see regulation 4 of, and Schedule A1 to, the European Primary and Specialist Dental Qualifications Regulations (S.I. 1998/811)); and for this purpose each of the following is a “specialist matter”—

- (a) training to be a specialist in orthodontics or oral surgery;
- (b) qualifications as such a specialist;
- (c) practice as such a specialist.

(4) Each dental authority is designated as a competent authority in the United Kingdom for the purposes of awarding UK diplomas in dentistry.

(5) In subsection (4) “UK diploma in dentistry” means—

- (a) a degree in dentistry that gives its holder the qualification of Bachelor of Dental Surgery (whether abbreviated as BDS or B.Ch.D.); or
- (b) a licence in dentistry that gives its holder the qualification of Licentiate in Dental Surgery (LDS).

(6) In Schedule 4ZA—

“non-UK dental qualification” means a dental qualification that is awarded to a person by a competent authority of a relevant European State other than the United Kingdom;  
“UK dental qualification” means a dental qualification that is awarded to a person by a competent authority in the United Kingdom.

#### **Fees for provision of certificates**

**36ZB.** The Council may charge such reasonable fees as they may determine to cover the cost of providing any of the certificates referred to in Schedule 4ZA.”.

#### **Amendment of section 36B**

**122.** In section 36B(13) (the dental care professionals register), after subsection (1) insert—

- “(1A) The dental care professionals register shall consist of two lists, namely—
- (a) the principal list, which shall contain particulars of persons who under section 36C are entitled to be registered in the dental care professionals register; and
  - (b) the list of visiting dental care professionals from relevant European States, which shall contain particulars of persons who under section 36Z3 are entitled to be registered in the dental care professionals register.”.

#### **Amendment of section 36C**

**123.** In section 36C(14) (qualifications for registration)—

- (a) for subsection (3) substitute—

“(3) Matter B is that the person—

  - (a) is an exempt person; and

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(13) Section 36B was inserted by S.I. 2005/2011.

(14) Section 36C was inserted by S.I. 2005/2011 and amended by S.I. 2006/1718.

- (b) is permitted to practise in the United Kingdom as a member of the profession pursued by clinical dental technicians, dental hygienists, dental nurses, dental technicians, dental therapists or orthodontic therapists (as the case may be) by virtue of Part 3 of the General Systems Regulations (having, in particular, successfully completed any adaptation period, or passed any aptitude test, that he may be required to undertake pursuant to that Part of those Regulations).”;
- (b) in subsection (4)(c), for “(except where he is a national of an EEA State or a person within subsection (3)(a)(ii))” substitute “except where he is an exempt person,”;
- (c) for subsection (5)(b) substitute—
  - “(b) in the case of an exempt person who holds a relevant qualification which—
    - (i) was granted otherwise than in a relevant European State, and
    - (ii) has been accepted by a relevant European State, other than the United Kingdom, as qualifying the person to practise in that State as a member of the profession or class to which the title applies,
 shall take that acceptance into account.”; and
- (d) omit subsection (7).

#### **Amendment of section 36E**

**124.** In section 36E(15) (rules relating to the dental care professionals register), in paragraph (a), for “in the dental care professionals register” substitute “in the principal list of the dental care professionals register”.

#### **Amendment of section 36F**

**125.** In section 36F(16) (fees)—

- (a) in subsection (1), for “The Council” substitute “Subject to subsection (1A), the Council”; and
- (b) after subsection (1) insert—
  - “(1A) Regulations under this section shall not prescribe fees in respect of registration in the list mentioned in section 36B(1A)(b).”.

#### **Insertion of sections 36Z3 and 36Z4**

**126.** After section 36Z2(17) insert—

*“Visiting dental care professionals from relevant European States*

#### **Visiting dental care professionals from relevant European States**

**36Z3.**—(1) This section applies to an exempt person (“V”) who is lawfully established, in a relevant European State other than the United Kingdom (“State A”), as a member of one of the dental care professions (“the established profession”).

(2) Subsection (3) applies if V has the benefit of regulation 8 of the General Systems Regulations in connection with the provision by V of relevant services in the United

(15) Section 36E was inserted by [S.I. 2005/2011](#).

(16) Section 36F was inserted by [S.I. 2005/2011](#).

(17) Section 36Z2 was inserted by [S.I. 2005/2011](#), and has been brought into force for the purpose only of the exercise of the power to make rules.



Kingdom on a temporary and occasional basis (V having complied with any requirements imposed under Part 2 of those Regulations in connection with the provision by V of relevant services).

(3) V is entitled to be registered in the dental care professionals register under the title, or (as the case may be) the titles, specified in regulations under section 36A(2) as applying to the established profession; and the registrar shall give effect to the entitlement.

(4) If V—

(a) is entitled under subsection (3) to be registered in the dental care professionals register under any particular title, but

(b) is not registered in the list mentioned in section 36B(1A)(b) under that title,

V shall be treated as registered in that list under that title.

(5) V's entitlement under subsection (3) ceases if V ceases, whether as a result of the operation of regulation 17 of the General Systems Regulations or otherwise, to have the benefit of regulation 8 of those Regulations in connection with the provision by V of relevant services in the United Kingdom on a temporary and occasional basis.

(6) If—

(a) V's entitlement under subsection (3) ceases by reason of the operation of subsection (5), and

(b) V's name is registered in the list mentioned in section 36B(1A)(b) under the title, or any one or more of the titles, specified in regulations under section 36A(2) as applying to the established profession,

the registrar may erase V's name from registration in that list under the title or titles concerned.

(7) Subsection (8) applies if—

(a) V's establishment in State A is subject to a condition relating to V's practice of the established profession;

(b) V's name is registered in the dental care professionals register under the title, or (as the case may be) the titles, specified in regulations under section 36A(2) as applying to the established profession; and

(c) for any of the purposes of this Act it falls to be decided whether V's fitness to practise is or may be impaired on the ground of misconduct.

(8) The matters that may be counted as misconduct include (in particular) any act or omission by V during the course of the provision by V of relevant services in the United Kingdom on a temporary and occasional basis that is, or would be if the condition applied in relation to practice of the established profession outside State A, a breach of the condition.

(9) In subsections (7) and (8) "condition" includes limitation.

(10) Subsections (1) to (6) are not to be taken to prejudice the application, in relation to persons registered in the list mentioned in section 36B(1A)(b), of any other provision of this Act under which a registered dental care professional's name may be erased from the dental care professionals register or under which a registered dental care professional's registration in the dental care professionals register may be suspended.

(11) In this section "relevant services" means services provided in pursuit of the established profession.

(12) For the purposes of this section, each of the following is a dental care profession—

(a) the profession pursued by clinical dental technicians;

(b) the profession pursued by dental hygienists;

- (c) the profession pursued by dental nurses;
- (d) the profession pursued by dental technicians;
- (e) the profession pursued by dental therapists;
- (f) the profession pursued by orthodontic therapists.

### **Limits on section 36Z1 as respects visiting dental care professionals**

**36Z4.**—(1) Subsections (1) and (2) of section 36Z1(18), so far as relating to a person (“P”)—

- (a) who is registered in the list mentioned in section 36B(1A)(b) under a title applying to, or to a class of members of, a particular profession (“the established profession”), but
- (b) who is not registered in the list mentioned in section 36B(1A)(a) under a title applying to, or to a class of members of, the established profession,

have effect subject to, respectively, subsections (2) and (3) of this section.

(2) Rules made under section 36Z1(1)—

- (a) may not impose requirements on P in connection with P’s pursuit of the established profession if P is required to undertake, in P’s home State, professional training and development in relation to the established profession; and
- (b) where they impose requirements on P in connection with P’s pursuit of the established profession—
  - (i) shall take account of the fact that P is fully qualified to pursue the established profession in P’s home State, and
  - (ii) shall specify that professional training and development which P is required to undertake by the requirements may be undertaken outside the United Kingdom.

(3) The registrar’s power under section 36Z1(2) is exercisable in relation to P’s registration under a title applying to, or to a class of members of, the established profession only if it also appears to the registrar that, in the circumstances of the case, erasure from registration under that title is an appropriate and proportionate sanction in view of P’s continued lawful establishment as a member of the established profession in P’s home State.

(4) In this section “home State”, in relation to P, means the relevant European State in which P is lawfully established as a member of the established profession.”.

### **Amendment of section 38**

**127.** In section 38 (prohibition on practice of dentistry by laymen), in subsection (1)(19), for “a registered dentist, a registered dental care professional or a visiting EEA practitioner entered in the list of such practitioners” substitute “a registered dentist or a registered dental care professional”.

### **Amendment of section 39**

**128.** In section 39(20) (prohibition on use of practitioners’ titles by laymen), in subsection (1), omit “or a visiting EEA practitioner entered in the list of such practitioners”.

(18) Section 36Z1 was inserted by [S.I. 2005/2011](#), and has been brought into force for the purpose only of the exercise of the power to make rules.

(19) Subsection (1) was amended by [S.I. 1996/1496](#) and [2005/2011](#).

(20) Section 39 was amended by [S.I. 1996/1496](#) and [2005/2011](#).

### **Amendment of section 53**

**129.** In section 53 (interpretation), in subsection (1)(21)—

(a) before the definition of “the Council” insert—

““competent authority” means any authority or body of a relevant European State designated by that State for the purposes of the Directive as competent to—

(a) receive or issue evidence of qualifications or other information or documents,  
or

(b) receive applications and take the decisions referred to in the Directive,  
in connection with the practice of dentistry or a profession complementary to  
dentistry;”;

(b) after the definition of “diploma” insert—

““the Directive” means Directive [2005/36/EC](#) of the European Parliament and of the Council of 7th September 2005 on the recognition of professional qualifications (OJNo. L255, 30.09.2005, p.22)(22), and references in this Act to the Directive or to any provision of the Directive are references to the Directive, or to that provision of the Directive, as amended from time to time;”;

(c) omit the definitions of “the EEA Agreement” and “EEA State”;

(d) after the definition of “the Directive” insert—

““exempt person”, in relation to the profession of dentistry or in relation to a profession complementary to dentistry, means—

(a) a national of a relevant European State other than the United Kingdom;

(b) a national of the United Kingdom who is seeking access to, or is pursuing, the profession by virtue of an enforceable Community right; or

(c) a person who is not a national of a relevant European State but who is, by virtue of an enforceable Community right, entitled to be treated, for the purposes of access to and pursuit of the profession, no less favourably than a national of a relevant European State;

“the General Systems Regulations” means the European Communities (Recognition of Professional Qualifications) Regulations 2007 ([S.I. 2007/2781](#));”;

(e) after the definition of “interim order” insert—

““national”, in relation to a relevant European State, means the same as in the Community Treaties, but does not include a person who by virtue of Article 2 of Protocol No. 3 (Channel Islands and Isle of Man) to the Treaty of Accession is not to benefit from Community provisions relating to the free movement of persons and services;”;

(f) after the definition of “the registrar” insert—

““relevant European State” means an EEA State or Switzerland.”; and

(g) omit the definition of “visiting EEA practitioner entered in the list of such practitioners”.

### **Amendment of Schedule 2**

**130.**—(1) Schedule 2 (European dental qualifications) is amended as follows.

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(21) Subsection (1) was amended by [S.I. 1996/1496](#) and [2005/2011](#).

(22) The Directive was amended by Council Directive [2006/100/EC](#) of 20th November 2006, OJ No. L363 of 20.12.2006, p.141.

(2) For paragraph 1(**23**) substitute—

“**1.** In this Schedule—

“medical qualification” means a diploma, certificate or other evidence of qualifications as a doctor issued by a competent authority in a relevant European State; and

“the reference date”, in relation to a relevant European State, means the date specified in relation to that State in the column entitled “Reference date” in Annex V, point 5.3.2 of the Directive.”.

(3) In paragraph 2(**24**)—

(a) for “an EEA State” substitute “a relevant European State”; and

(b) after “of this Act” insert “, provided that, where the diploma is listed in Annex V, point 5.3.2 of the Directive, it is accompanied, where appropriate, by the certificate listed in relation to that State in the column of Annex V, point 5.3.2 of the Directive entitled “Certificate accompanying the evidence of qualifications”.”.

(4) For paragraph 3(**25**) substitute—

“**3.** A diploma listed in Annex V, point 5.3.2 of the Directive granted in a relevant European State before the reference date, or on or after that date where training of which the diploma is evidence was commenced by the holder before that date, is not an appropriate European diploma for the purposes of section 15(1)(b) unless the holder either—

(a) does the following—

(i) satisfies the registrar (by means of a certificate of a competent authority of that State or otherwise) that the diploma guarantees that the holder’s training satisfies the requirements of article 34 of the Directive (requirements for basic dental training), and

(ii) produces to the registrar, where appropriate, the certificate listed in relation to that State in the column of Annex V, point 5.3.2 of the Directive entitled “Certificate accompanying the evidence of qualifications”; or

(b) produces to the registrar a certificate of a competent authority of any relevant European State that the holder has effectively and lawfully practised dentistry in that State for at least three consecutive years during the five years preceding the date of issue of the certificate.”.

(5) For paragraph 3A(**26**) substitute—

“**3A.** A diploma granted in a relevant European State on or after the reference date which is not evidence of training commenced by the holder before that date, and which is not listed in Annex V, point 5.3.2 of the Directive, is not an appropriate European diploma for the purposes of section 15(1)(b) unless the holder produces to the registrar a certificate issued by a competent authority of the relevant European State certifying that the diploma—

(a) is evidence of training which satisfies the requirements of article 34 of the Directive; and

(b) is treated by that State as if it were a qualification listed in relation to that State in Annex V, point 5.3.2 of the Directive.”.

(6) In paragraph 4(**27**)—

(23) Paragraph 1 was substituted by [S.I. 1996/1496](#) and amended by [S.I. 2003/3148](#) and [2004/1947](#).

(24) Paragraph 2 was substituted by [S.I. 1996/1496](#).

(25) Paragraph 3 was amended by [S.I. 1996/1496](#).

(26) Paragraph 3A was inserted by [S.I. 1996/1496](#).

(27) Paragraph 4 was amended by [S.I. 1996/1496](#).

- (a) for “an EEA State before the implementation date” substitute “a relevant European State before the reference date”;
  - (b) for “a scheduled European diploma” substitute “listed in Annex V, point 5.3.2 of the Directive”; and
  - (c) for “the said purposes” substitute “the purposes of section 15(1)(b)”.
- (7) For paragraphs 5 and 6**(28)** substitute—
- “5. A medical qualification awarded in Austria, Italy, Romania or Spain to a person who began his medical training on or before the reference date for the State concerned is an appropriate European diploma for the purposes of section 15(1)(b) of this Act where that person produces to the registrar a certificate issued by a competent authority of the State concerned certifying that the person—
- (a) has—
    - (i) effectively, lawfully and principally practised dentistry in that State for at least three consecutive years during the five years preceding the date of issue of the certificate, or
    - (ii) successfully completed three years of study which are equivalent to the training referred to in article 34 of the Directive; and
  - (b) is authorised to practise dentistry under the same conditions as holders of a qualification listed in relation to the State concerned in Annex V, point 5.3.2 of the Directive.”.
- (8) In paragraph 6A**(29)**—
- (a) in sub-paragraph (1)—
    - (i) for “diploma in medicine” substitute “medical qualification”,
    - (ii) for “on or after 28th January 1980 but not later than 31st December 1984” substitute “after 28th January 1980”,
    - (iii) in paragraph (a), for “specialist” substitute “relevant”, and
    - (iv) in paragraphs (a) and (c), for “listed for Italy in Part II of this Schedule” substitute “listed in relation to Italy in Annex V, point 5.3.2 of the Directive”; and
  - (b) for sub-paragraph (2) substitute—

“(2) A person shall be excepted from satisfying the requirement referred to in sub-paragraph (1)(a) if he satisfies the registrar that he has successfully completed three years of study—

    - (a) which, in the case of a person who began medical training at a university after 31st December 1984, were begun before 31st December 1994; and
    - (b) which are certified by a competent authority in Italy as being equivalent to the training referred to in article 34 of the Directive.”.
- (9) In paragraph 7(b)**(30)**, for “the German scheduled European diploma” substitute “the qualification listed in relation to Germany in Annex V, point 5.3.2 of the Directive”.
- (10) In paragraph 8**(31)**—
- (a) in sub-paragraph (1)(b), for “the state (or former state)” substitute “the former state”; and
  - (b) in sub-paragraph (2)—

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**(28)** Paragraphs 5 and 6 were inserted by [S.I. 1986/23](#) and substituted by [SI 1996/1496](#).

**(29)** Paragraph 6A was inserted by [S.I. 2003/3148](#).

**(30)** Paragraph 7 was substituted by [S.I. 1996/1496](#).

**(31)** Paragraph 8 was inserted by [S.I. 2004/1947](#).

(i) for paragraphs (a) and (b) substitute—

“(a) a certificate of a competent authority of the relevant European State specified in the corresponding entry in column (c) of the table stating that the holder has effectively and lawfully practised dentistry in that State for at least three consecutive years during the five years preceding the date of issue of the certificate; and

(b) a certificate from the competent authority of that State stating that that diploma has, on its territory, the same legal validity as regards access to and practice of the dental profession as the qualification listed in relation to that State in Annex V, point 5.3.2 of the Directive.”, and

(ii) in column (b) of the Table, for “Yugoslavia” substitute “Former Yugoslavia”.

(11) For paragraphs 9 and 10(32) substitute—

“9. A medical qualification awarded in the Czech Republic or in the former Czechoslovakia which is evidence of medical training commenced before 1st May 2004 is an appropriate European diploma for the purposes of section 15(1)(b) of this Act if the holder produces to the registrar a certificate of a competent authority of the Czech Republic certifying that the holder—

(a) has—

(i) effectively, lawfully and principally practised dentistry in the Czech Republic for at least three consecutive years during the five years preceding the date of issue of the certificate, or

(ii) successfully completed three years of study which are equivalent to the training referred to in article 34 of the Directive; and

(b) is authorised to practise dentistry under the same conditions as holders of the qualification listed in relation to the Czech Republic in Annex V, point 5.3.2 of the Directive.

10. A medical qualification awarded in Slovakia or in the former Czechoslovakia which is evidence of medical training commenced before 1st May 2004 is an appropriate European diploma for the purposes of section 15(1)(b) of this Act if the holder produces to the registrar a certificate of a competent authority of Slovakia certifying that the holder—

(a) has—

(i) effectively, lawfully and principally practised dentistry in Slovakia for at least three consecutive years during the five years preceding the date of issue of the certificate, or

(ii) successfully completed three years of study which are equivalent to the training referred to in article 34 of the Directive; and

(b) is authorised to practise dentistry under the same conditions as holders of the qualification listed in relation to Slovakia in Annex V, point 5.3.2 of the Directive.”.

(12) Omit Part II (scheduled European diplomas)(33).

## **Amendment of Schedule 2A**

**131.** In Schedule 2A(34) (registration appeals: dentists register)—

(32) Paragraphs 9 and 10 were inserted by [S.I. 2004/1947](#).

(33) Part II was substituted by [S.I. 2003/3148](#) and amended by [S.I. 2004/1947](#).

(34) Schedule 2A was inserted by [S.I. 2005/2011](#).

- (a) in paragraph 1, in the definition of “the requisite period”, after “make the decision” insert “, and in relation to a decision of a kind specified in paragraph 2(1)(aa), means the period of four months beginning with the date when the registrar is first in possession of sufficient information to make the decision”;
- (b) in paragraph 2(1)—
  - (i) for paragraph (a) substitute—
    - “(a) a decision not to register a person’s name in the register under subsection (1)(a), (b) or (c) of section 15 (qualification for registration) on the grounds that any of the requirements of that section are not met;
    - (aa) a decision not to register a person’s name in the register under subsection (1)(ba) of section 15 on the grounds that any of the requirements of that section are not met;
    - (ab) a decision under Part 3 of the General Systems Regulations to require an exempt person within sub-paragraphs (i) and (ii) of section 15(1)(ba) to complete an adaptation period, or pass an aptitude test, in connection with becoming entitled by virtue of that Part of those Regulations to pursue the profession of dentistry in the United Kingdom;”;
  - (ii) in paragraph (j), for “EEA state); and” substitute “relevant European State);”, and
  - (iii) after paragraph (k) insert—
    - “; and
    - (l) a decision not to register a person’s name in the register under Schedule 4 (visiting dentists from relevant European States).”; and
- (c) in paragraph 3(2), for “paragraphs (a), (b)” substitute “paragraphs (a), (aa), (b)”.

#### **Substitution of Schedule 4**

**132.** For Schedule 4 substitute—

“SCHEDULE 4

Section 36

#### VISITING DENTISTS FROM RELEVANT EUROPEAN STATES

##### **Application and interpretation**

- 1.** This Schedule applies to an exempt person who is lawfully established in dental practice in a relevant European State other than the United Kingdom.
- 2.** In this Schedule—
  - (a) a “visiting practitioner” means an exempt person to whom this Schedule applies;
  - (b) the “home State”, in relation to a visiting practitioner, means the relevant European State in which the practitioner is lawfully established in dental practice; and
  - (c) a reference to the provision of occasional dental services is a reference to the provision of dental services in the United Kingdom on a temporary and occasional basis.

##### **Registration in respect of provision of occasional dental services**

- 3.—(1)** A visiting practitioner is entitled to be registered in the register if the practitioner is entitled under paragraph 4 or 7 to provide occasional dental services; and the registrar shall give effect to the entitlement.

(2) A visiting practitioner who is entitled under sub-paragraph (1) to be registered in the register, but who is not registered in the register's list of visiting dentists from relevant European States, shall be treated as registered in that list.

(3) Sub-paragraph (4) applies where a person's entitlement under sub-paragraph (1) to be registered in the register ceases because, by reason of the operation of paragraph 8(1), (2) or (5), the person ceases to be entitled under this Schedule to provide occasional dental services.

(4) If the person's name is registered in the register's list of visiting dentists from relevant European States, the registrar may erase the person's name from that list.

(5) Sub-paragraphs (1) to (4) are not to be taken to prejudice the application, in relation to persons registered in the register on the basis of entitlement under sub-paragraph (1), of any other provision of this Act under which a registered dentist's name may be erased from the register or under which a registered dentist's registration in the register may be suspended.

#### **Entitlement to provide occasional dental services: first year**

4. A visiting practitioner is entitled to provide occasional dental services if—
- (a) the practitioner has complied with the requirements of paragraph 5, and
  - (b) where the practitioner's case falls within regulation 3(9)(a) or (e) of the General Systems Regulations, the provision by the practitioner of occasional dental services is in accordance with regulations 14 to 16 of those Regulations (the practitioner having, in particular, successfully completed any adaptation period, or passed any aptitude test, that the practitioner may be required to undertake pursuant to Part 2 of those Regulations),

but paragraph 8 contains provision about the duration of entitlement under this paragraph.

#### **First provision of services: required documents**

5.—(1) A visiting practitioner who proposes to provide occasional dental services for the first time must, before providing any such services, send or produce to the registrar the required documents.

- (2) The required documents are—
- (a) a written declaration that—
    - (i) states the practitioner's wish to provide occasional dental services, and
    - (ii) contains details of the insurance cover, or other means of personal or collective protection, that the practitioner has with regard to professional liability;
  - (b) if the practitioner is a national of a relevant European State, proof of nationality;
  - (c) if the practitioner is not a national of a relevant European State, proof of the Community right by virtue of which the practitioner is an exempt person;
  - (d) evidence of dental qualifications (see paragraph 6); and
  - (e) a certificate (or certificates) issued by a competent authority in the practitioner's home State confirming—
    - (i) that the practitioner is lawfully established in dental practice in that State, and
    - (ii) that the practitioner is not prohibited (whether on a permanent or temporary basis) from practising dentistry there.

(3) A declaration under sub-paragraph (2)(a) may be supplied by any means.

(4) In registering a visiting practitioner in the register on the basis of entitlement under this Schedule, the registrar must enter against the practitioner's name in the register details of the



qualifications of which the practitioner supplied evidence for the purposes of sub-paragraph (2) (d).

6.—(1) Subject to sub-paragraph (4), the evidence referred to in paragraph 5(2)(d) is evidence of the European-recognised qualifications which entitle the visiting practitioner to provide, in the practitioner’s home State, the dental services that the practitioner proposes to provide in the United Kingdom on a temporary and occasional basis.

(2) For the purposes of this paragraph and subject to sub-paragraph (4), the evidence of qualifications must, if the visiting practitioner proposes to provide any specialist dental services in the United Kingdom on a temporary and occasional basis, include evidence of the European-recognised qualifications which entitle the practitioner to provide, in the practitioner’s home State, those specialist dental services.

(3) This sub-paragraph applies to a visiting practitioner whose case falls within regulation 3(9) (a) or (e) of the General Systems Regulations (with the result that the practitioner is not entitled to provide occasional dental services unless their provision by the practitioner is in accordance with regulations 14 to 16 of those Regulations).

(4) If sub-paragraph (3) applies to a visiting practitioner, the evidence referred to in paragraph 5(2)(d) of the practitioner’s dental qualifications is evidence of the qualifications which entitle the practitioner to practise dentistry in his home State.

(5) In this paragraph, “European-recognised qualifications” means qualifications which relevant European States are required by the Directive to recognise.

#### **Entitlement to provide occasional dental services after first year: renewals**

7.—(1) Sub-paragraph (2) applies where the registrar receives the required renewal documents from a visiting practitioner who is entitled under this Schedule to provide occasional dental services.

(2) The visiting practitioner is entitled to continue to provide occasional dental services, but paragraph 8 contains provision about the duration of entitlement continued under this sub-paragraph.

(3) Sub-paragraph (4) applies where the registrar receives the required renewal documents from a visiting practitioner—

- (a) who is not entitled under this Schedule to provide occasional dental services;
- (b) who has been previously entitled under this Schedule to provide occasional dental services; and
- (c) whose registration in the list of visiting dentists from relevant European States is not suspended.

(4) The visiting practitioner is once again entitled to provide occasional dental services but, in a case where the practitioner’s name is not in the list of visiting dentists from relevant European States as a result of erasure otherwise than under paragraph 3(4), only if the registrar decides, after having regard (in particular) to the fact of that erasure and the reasons for it, that the entitlement should be renewed.

Paragraph 8 contains provision about the duration of entitlement under this sub-paragraph.

(5) In relation to a visiting practitioner “the required renewal documents” are—

- (a) a renewal declaration; and
- (b) each evidence of change document (if any).

(6) In this paragraph “renewal declaration”, in relation to a visiting practitioner, means a written declaration that—

- (a) states the practitioner's wish to provide occasional dental services in a further year; and
  - (b) contains details of the insurance cover, or other means of personal or collective protection, that the practitioner has with regard to professional liability.
- (7) Where a document—
- (a) is, in relation to a visiting practitioner, one of the required documents for the purposes of paragraph 5,
  - (b) is not a declaration under paragraph 5(2)(a), and
  - (c) substantiates a matter as respects which there has been a material change since the practitioner last (whether under paragraph 5 or this paragraph) supplied the then-current version of the document to the registrar,

the version of the document current when under this paragraph the practitioner supplies a renewal declaration to the registrar is an "evidence of change document" for the purposes of sub-paragraph (5)(b).

- (8) A renewal declaration supplied under this paragraph may be supplied by any means.

#### **Duration of entitlement to provide occasional dental services**

**8.—(1)** Unless an entitlement under paragraph 4 or 7(4) is continued (or further continued) by paragraph 7(2), the entitlement ceases at the end of the year that begins with the end of the day on which the registrar received the documents whose receipt gave rise to the entitlement.

(2) Where an entitlement under paragraph 4 or 7(4) is continued (or further continued) by paragraph 7(2), the entitlement is extended so as to cease at the end of the year that begins with the end of the relevant day.

(3) For the purposes of sub-paragraph (2)—

- (a) if the day on which the registrar receives the documents whose receipt gives rise to the continuation (or further continuation) is an anniversary of the start day, "the relevant day" means the day on which the registrar receives those documents;
- (b) otherwise, "the relevant day" means the anniversary of the start day that is the first such anniversary to occur after the registrar receives the documents whose receipt gives rise to the continuation (or further continuation).

(4) In sub-paragraph (3) "the start day", in relation to an entitlement under paragraph 4 or 7(4), means the day on which the registrar receives the documents whose receipt gives rise to the entitlement.

(5) An entitlement under this Schedule to provide occasional dental services ceases if—

- (a) the visiting practitioner concerned becomes established in dental practice in the United Kingdom; or
- (b) a disqualifying decision is made against the visiting practitioner concerned.

(6) In sub-paragraph (5) "disqualifying decision", in relation to a visiting practitioner, means a decision made by a competent or judicial authority in the practitioner's home State that has the effect that the practitioner—

- (a) ceases in that State to be registered or otherwise officially recognised as a dental practitioner; or
- (b) is prohibited (whether on a permanent or temporary basis) from practising dentistry in that State.

(7) If in the case of a visiting practitioner—

- (a) the practitioner’s registration in the list of visiting dentists from relevant European States is suspended or the practitioner’s name is erased from that list, and
- (b) immediately before the time when the suspension or (as the case may be) erasure takes effect, the practitioner is entitled under this Schedule to provide occasional dental services,

that entitlement ceases at that time.

### Conditions

9.—(1) Paragraph (2) applies if—

- (a) the establishment of a visiting practitioner in the practitioner’s home State is subject to a condition relating to the practitioner’s dental practice;
- (b) the practitioner’s name is registered in the register; and
- (c) for any of the purposes of this Act it falls to be decided whether the practitioner’s fitness to practise is or may be impaired on the ground of misconduct.

(2) The matters that may be counted as misconduct include (in particular) any act or omission by the visiting practitioner during the course of the provision by the practitioner of occasional dental services that is, or would be if the condition applied in relation to dental practice outside the practitioner’s home State, a breach of the condition.

(3) In paragraphs (1) and (2) “condition” includes limitation.”.

### Insertion of Schedule 4ZA

133. After Schedule 4 insert—

#### “SCHEDULE 4ZA

Section 36ZA

#### DIRECTIVE 2005/36: FUNCTIONS OF THE COUNCIL UNDER SECTION 36ZA(3)

<i>Provision of Directive</i>	<i>Function of Council</i>
Article 7(2)(b)	Issuing certificates containing attestations in relation to persons established as dentists in the United Kingdom.
Article 8(1)	Receiving information from, or providing information to, other competent authorities in relation to—
	(a) the legality of a person’s establishment as a dentist;
	(b) the good conduct of such a person;
	(c) the absence of any disciplinary or criminal sanctions of a professional nature against such a person.
Article 8(2)	Receiving information from, or providing information to, other competent authorities in connection with the investigation of complaints made against persons providing dental services.
Article 23(1)	Issuing certificates of effective and lawful practice in the United Kingdom to dentists.
Article 23(6)	Issuing certificates stating that UK dental qualifications, which do not correspond to the titles set out in respect of the United Kingdom at point 5.3.2 of Annex V to the Directive,

<i>Provision of Directive</i>	<i>Function of Council</i>
	certify successful completion of basic dental training that is in accordance with article 34 of the Directive or that under article 22(a) of the Directive (part-time training) is to be treated as in accordance with article 34 of the Directive.
Article 50(1) and paragraph 1(d) of Annex VII	Issuing, in respect of the practice of dentistry, the certificates of current professional status referred to in sub-paragraph (d) of paragraph 1 of Annex VII to the Directive within the time limits set by that sub-paragraph.
Article 50(1) and paragraph 2 of Annex VII	Issuing certificates stating that evidence of UK dental qualifications is that covered by the Directive.
Article 50(2)	In cases of justified doubts—
	(a) requiring confirmation of the authenticity of non-UK dental qualifications;
	(b) requiring confirmation that holders of non-UK dental qualifications satisfy the minimum training conditions set out in article 34 of the Directive or under article 22(a) of the Directive are to be treated as satisfying those conditions;
	(c) providing confirmation to competent authorities of other relevant European States of the authenticity of any person's UK dental qualifications;
	(d) providing confirmation that holders of UK dental qualifications satisfy the minimum training conditions set out in article 34 of the Directive or under article 22(a) of the Directive are to be treated as satisfying those conditions.
Article 50(3)	In cases of justified doubts—
	(a) verifying information provided in connection with non-UK dental qualifications awarded following training in a relevant European State other than the State in which the qualification was awarded;
	(b) providing information in connection with a person's UK dental qualifications awarded following training in another relevant European State.
Article 56(1)	Ensuring the confidentiality of information exchanged with other competent authorities.
Article 56(2)	Receiving information from, or providing information to, other competent authorities regarding disciplinary action, criminal sanctions or other serious circumstances likely to have consequences for the practice of dentistry.
	Where such information is received by the Council—
	(a) examining the veracity of the circumstances;

<i>Provision of Directive</i>	<i>Function of Council</i>
	(b) deciding the nature and scope of any investigations that need to be carried out;
	(c) informing other competent authorities of the Council's conclusions."

#### **Amendment of Schedule 4A**

**134.** In Schedule 4A(35) (registration appeals: dental care professionals register), in paragraph 2(1)—

(a) after paragraph (a) insert—

“(aa) a decision under Part 3 of the General Systems Regulations to require an exempt person to complete an adaptation period, or pass an aptitude test, in connection with becoming entitled by virtue of that Part of those Regulations to practise in the United Kingdom as a member of one of the professions mentioned in section 36C(3)(b);”;

(b) after paragraph (h) insert—

“; and

(i) a decision not to register a person's name under a particular title in the dental care professionals register under section 36Z3 (visiting dental care professionals from relevant European States).”.