



# Dentists Act 1984

## 1984 CHAPTER 24

### [<sup>F1</sup>PART 3A

#### PROFESSIONS COMPLEMENTARY TO DENTISTRY

##### Textual Amendments

- F1** Pt. 3A inserted (coming into force in accordance with art. 1(4)-(7) of the amending S.I. (see the London Gazette, issue nos. 57734, 57975, 58050 and 58769, dated respectively 19.8.2005, 5.6.2006, 21.7.2006 and 18.7.2008)) by [The Dentists Act 1984 \(Amendment\) Order 2005 \(S.I. 2005/2011\)](#), [art. 29](#) (with [Sch. 7](#)) (with transitional provisions in [S.I. 2006/1671](#))

#### *Introductory*

### **36A. Professions complementary to dentistry**

- (1) For the purposes of this Act, a profession complementary to dentistry is a profession—
  - (a) the majority of whose members work in connection with the provision of dental care—
    - (i) with persons receiving such care, or
    - (ii) with persons registered in the dentists register or the dental care professionals register established by section 36B; and
  - (b) in respect of which the regulatory body is not a body (other than the Council) [<sup>F2</sup>listed in section 25(3)] of the National Health Service Reform and Health Care Professions Act 2002.
- (2) The Council may by regulations specify—
  - (a) a profession complementary to dentistry; or
  - (b) a class of members of a profession complementary to dentistry.
- (3) Regulations under subsection (2) specifying a profession or class of members must also specify a title which applies to that profession or class.

*Status: Point in time view as at 19/10/2015.*

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- (4) Regulations under subsection (2) shall not come into force until approved by order of the Privy Council.
- (5) Before making regulations under subsection (2), the Council shall consult organisations appearing to the Council to be representative of the professions, or classes of members of professions, specified in the proposed regulations.
- (6) The following provisions of this Part apply in relation to all members of a profession complementary to dentistry except those members of a profession or class in relation to which no regulations under subsection (2) are in force.

#### **Textual Amendments**

- F2** Words in s. 36A(1)(b) substituted (1.12.2012) by [Health and Social Care Act 2012 \(c. 7\)](#), s. 306(4), [Sch. 15 para. 67](#); [S.I. 2012/2657](#), art. 2(3)

### *Education and registration*

#### **36B. The dental care professionals register**

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

[ The dental care professionals register shall consist of two lists, namely—

  - <sup>F3</sup>(1A) (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.]
- (2) The dental care professionals register shall be kept by the registrar.
- (3) Subsections (4) and (5) of section 14 apply to the register established under this section, and to the registrar's duties as keeper of that register, as they apply to the dentists register and to the registrar's duties in respect of the dentists register.
- (4) Rules may make provision relating to the form of the dental care professionals register and the manner in which it is to be kept.
- (5) A person may not be registered in the dental care professionals register except under one or more of the titles specified in regulations under section 36A(2).
- (6) A certificate purporting to be signed by the registrar, certifying that a person—
  - (a) is registered in the dental care professionals register under a particular title,
  - (b) is not registered in that register under a particular title,
  - (c) was registered in that register under a particular title at a specified date or during a specified period,
  - (d) was not registered in that register under a particular title at a specified date or during a specified period, or
  - (e) has never been registered in that register under a particular title,
 shall be evidence (and in Scotland sufficient evidence) of the matters certified.

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### Textual Amendments

- F3** S. 36B(1A) inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **122**

## 36C. Qualifications for registration

- (1) Subject to the provisions of this Act, a person shall be entitled to be registered under a particular title in the dental care professionals register if he satisfies the registrar—
- (a) [<sup>F4</sup>in a case where the title concerned applies to the profession pursued by clinical dental technicians, dental hygienists, dental nurses, dental technicians, dental therapists or orthodontic therapists] —
- (i) of matter A, B or C, and
- (ii) of matter D; and
- (b) in any other case—
- (i) of matter A or C, and
- (ii) of matter D.
- (2) Matter A is that the person holds a qualification or qualifications approved by the Council under section 36D(2) in relation to the profession, or class of members of a profession, to which the title applies.

[<sup>F5</sup>(3) Matter B is that the person—

- (a) is an exempt person; and
- (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).]

(4) Matter C is that the person—

- (a) holds a qualification or qualifications granted by an institution or institutions outside the United Kingdom relevant to the profession complementary to dentistry, or class of members of such a profession, to which the title applies (in this section referred to as “relevant qualifications”);
- (b) has satisfied the Council that he has the requisite knowledge and skill to practise as a member of the profession or class to which the title applies; and
- (c) [<sup>F6</sup>except where he is an exempt person,] has the knowledge of English which, in the interests of himself and his patients, is necessary for practising in the United Kingdom as a member of the profession or class to which the title applies.

(5) For the purpose of establishing whether a person has the requisite knowledge and skill for the purposes of subsection (4)(b), the Council—

- (a) in all cases—
- (i) shall take into account all that person’s relevant qualifications, and all relevant knowledge or experience, wherever acquired, and
- (ii) may determine that a person must perform to the satisfaction of the Council in any test or assessment specified in the determination; and

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[<sup>F7</sup>(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.]

(6) Matter D is—

- (a) the person’s identity;
- (b) that he is of good character; and
- (c) that he is in good health, both physically and mentally.

<sup>F8</sup>(7) .....

#### Textual Amendments

- F4** Words in s. 36C(1)(a) substituted (28.7.2006) by [The European Qualifications \(Professions Complementary to Dentistry\) Regulations 2006 \(S.I. 2006/1718\)](#), regs. 1, **3(a)**
- F5** S. 36C(3) substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **123(a)**
- F6** Words in s. 36C(4)(c) substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **123(b)**
- F7** S. 36C(5)(b) substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **123(c)**
- F8** S. 36C(7) omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **123(d)**

### 36D. Education and training for members of professions complementary to dentistry

- (1) For each regulated profession or class, the Council shall, from time to time—
- (a) determine the appropriate standard of proficiency which, in their opinion, is required for a person to practise competently and safely as a member of the profession or class; and
  - (b) specify the content and standard of the education and training (including practical experience) which, in their opinion, is required for imparting the knowledge and skills necessary for a person to obtain that proficiency.
- (2) Where the Council are satisfied that—
- (a) a qualification granted by an institution in the United Kingdom is evidence of having reached the standard of proficiency for a regulated profession or class determined under subsection (1),
  - (b) a qualification which such an institution proposes to grant will be such evidence, or
  - (c) two or more qualifications granted or to be granted as mentioned in paragraph (a) or (b), taken together, are or will be such evidence,
- the Council may approve that qualification or those qualifications in relation to that regulated profession or class.
- (3) The matters determined or specified under subsection (1), and the qualifications approved under subsection (2), shall be published by the Council from time to time in such form as appears to them to be appropriate.

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- (4) The Council shall ensure that establishments providing or overseeing courses of education or training for persons who seek registration under a title in the dental care professionals register are notified of—
- (a) the matters for the time being determined or specified under subsection (1); and
  - (b) the qualifications for the time being approved under subsection (2).
- (5) Rules shall make provision for the withdrawal of approval given under subsection (2) in such circumstances as may be specified in the rules.
- (6) Rules may make provision for the appointment by the Council of persons to visit establishments which provide or oversee, or seek to provide or oversee, courses of education or training for persons referred to in subsection (4), for the purposes of advising and reporting back to the Council upon matters connected with such courses, including—
- (a) the sufficiency of instruction provided or overseen by, or to be provided or overseen by, those establishments;
  - (b) the suitability of a particular qualification for approval under subsection (2); and
  - (c) whether approval of a particular qualification ought to be withdrawn under rules under subsection (5).
- (7) Rules may make provision—
- (a) for the appointment by the Council of persons to attend examinations (or other forms of assessment) taken by persons attempting to obtain qualifications approved under subsection (2); and
  - (b) for persons appointed under paragraph (a) to report back to the Council on their findings.
- (8) In this section “regulated profession or class” means a profession complementary to dentistry, or class of members of such a profession, specified in regulations under section 36A(2).

#### *Procedure for registration*

### **36E. Rules relating to the dental care professionals register**

Rules may make provision relating to—

- (a) the form of an application by a person seeking registration under a title [<sup>F9</sup>in the principal list of the dental care professionals register] ;
- (b) the manner in which an application under paragraph (a) is to be made;
- (c) the evidence and information which an applicant must supply in support of an application under paragraph (a);
- (d) the details which must be entered in the dental care professionals register; and
- (e) the procedure for the making, alteration and deletion of entries in that register.

#### **Textual Amendments**

- F9** Words in s. 36E(a) substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), 124

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### 36F. Fees

- (1) <sup>F10</sup>Subject to subsection (1A), the Council] may by regulations—
- (a) prescribe a fee <sup>F11</sup>...—
    - (i) <sup>F12</sup>to be charged on] the entry of a person’s name in the dental care professionals register under a title (including a name already registered in that register under another title or titles) <sup>F13</sup>or to be charged otherwise in connection with an application for registration],
    - (ii) <sup>F14</sup>to be charged on] the restoration of a person’s name to that register under a title (including a name already registered in that register under another title or titles), or
    - (iii) <sup>F15</sup>to be charged on] the entry in that register of additional qualifications held by a registered dental care professional;
  - (b) prescribe a fee to be charged in respect of the retention of a person’s name under a title or titles in the dental care professionals register for each period of twelve months;
  - (c) provide for the payment by instalments of a fee prescribed by regulations under paragraph (b);
  - (d) authorise the registrar (notwithstanding anything in this Act) to refuse to make <sup>F16</sup>any entry in the dental care professionals register or take any other action in connection with an application for registration in that register or restore any entry to that register] until a fee prescribed by regulations under this section has been paid.

[ Regulations under this section shall not prescribe fees in respect of registration in the <sup>F17</sup>(1A) list mentioned in section 36B(1A)(b).]

- (2) The Council may by regulations provide that where a person, after such notices and warnings as may be provided for in the regulations, fails to pay a fee prescribed by regulations under subsection (1)(b), the registrar may erase that person’s name from registration under all titles under which that person is registered in the dental care professionals register.
- (3) Where a person’s name has been erased from registration under a particular title by virtue of regulations under subsection (2), that name shall be restored to the dental care professionals register under that title on that person’s application if he satisfies the registrar—
- (a) of Matter D within the meaning of section 36C; and
  - (b) that he meets the requirements of—
    - (i) section 36L, and
    - (ii) any rules made under section 36Z2 which apply to his case.
- (4) Where, under subsection (3), the registrar refuses to restore a person’s name to the dental care professionals register under a title, the registrar shall forthwith serve on the person concerned notification of the decision and of the reasons for it.

#### Textual Amendments

- F10** Words in s. 36F(1) substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **125(a)**
- F11** Words in s. 36F(1)(a) omitted (19.10.2015) by virtue of [The Health Care and Associated Professions \(Knowledge of English\) Order 2015 \(S.I. 2015/806\)](#), arts. 1(3), **23(2)(a)**; S.I. 2015/1451, art. 2(b)

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- F12** Words in s. 36F(1)(a)(i) inserted (19.10.2015) by The Health Care and Associated Professions (Knowledge of English) Order 2015 (S.I. 2015/806), arts. 1(3), **23(2)(b)(i)**; S.I. 2015/1451, art. 2(b)
- F13** Words in s. 36F(1)(a)(i) inserted (19.10.2015) by The Health Care and Associated Professions (Knowledge of English) Order 2015 (S.I. 2015/806), arts. 1(3), **23(2)(b)(ii)**; S.I. 2015/1451, art. 2(b)
- F14** Words in s. 36F(1)(ii) inserted (19.10.2015) by The Health Care and Associated Professions (Knowledge of English) Order 2015 (S.I. 2015/806), arts. 1(3), **23(2)(c)**; S.I. 2015/1451, art. 2(b)
- F15** Words in s. 36F(1)(iii) inserted (19.10.2015) by The Health Care and Associated Professions (Knowledge of English) Order 2015 (S.I. 2015/806), arts. 1(3), **23(2)(c)**; S.I. 2015/1451, art. 2(b)
- F16** Words in s. 36F(1)(d) substituted (19.10.2015) by The Health Care and Associated Professions (Knowledge of English) Order 2015 (S.I. 2015/806), arts. 1(3), **23(3)**; S.I. 2015/1451, art. 2(b)
- F17** S. 36F(1A) inserted (3.12.2007) by The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101), regs. 1(2), **125(b)**

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

#### **36G. Publication of the dental care professionals register**

- (1) The registrar shall make available to members of the public in such form as he considers appropriate—
  - (a) the names of persons appearing in the dental care professionals register;
  - (b) the title or titles under which a person is registered in that register;
  - (c) the qualifications of persons appearing in that register; and
  - (d) such other details as the Council may direct.
- (2) For the purposes of subsection (1), the registrar may provide a member of the public with a copy of, or extract from, the dental care professionals register, and any such copy or extract shall be evidence (and in Scotland sufficient evidence) of the matters mentioned in it.

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

#### **36H. Erasure of names of deceased persons and of those who have ceased to practise**

- (1) The registrar shall erase the name of a deceased person from registration under all titles under which that person is registered in the dental care professionals register; and on registering the death of a registered dental care professional, a registrar of births and deaths shall, without charge to the recipient, send forthwith by post to the registrar a copy certified under his hand of the entry in the register of deaths relating to the death.
- (2) Where a person is registered in the dental care professionals register under a title applying to a particular profession, or class of members of a profession, and has ceased to practise as a member of that profession or class, the registrar may, with that person's consent, erase his name from registration in that register under that title.
- (3) The registrar may send by post to a registered dental care professional a notice inquiring whether he has ceased to practise as a member of a particular profession complementary to dentistry, or class of members of such a profession, or has changed his residence and, if no answer is received to the inquiry within six months from the posting of the notice, the registrar may erase that person's name from registration under all titles under which that person is registered in the dental care professionals register.

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- (4) Where, under subsection (2) or (3) or at a person's request, a person's name has been erased from registration under a particular title, that name shall be restored to the dental care professionals register under that title on that person's application if the conditions specified in subsection (5) are met.
- (5) The conditions referred to in subsection (4) are that—
  - (a) the original entry of the person's name in the dental care professionals register under the title in question was not incorrectly made or fraudulently procured;
  - (b) the person satisfies the registrar of Matter D within the meaning of section 36C; and
  - (c) the person also satisfies the registrar that he meets the requirements of—
    - (i) section 36L, and
    - (ii) any rules made under section 36Z2 which apply to his case.

### **36L. Erasure on grounds of fraud or error**

- (1) If the registrar is satisfied that any entry in the dental care professionals register has been incorrectly made, he shall erase that entry from that register.
- (2) If the registrar has reason to believe that any entry in the dental care professionals register has been fraudulently procured, he shall refer the matter to the Professional Conduct Committee to determine the question of whether that entry has been fraudulently procured.
- (3) If the Professional Conduct Committee determine that the entry in the dental care professionals register has been fraudulently procured, they may direct that the name of the person to whom the entry relates shall be erased from registration under all titles under which he is registered in that register.
- (4) Where a person's name has been erased from registration under a particular title under subsection (3), that person may apply to the Council for his name to be restored to that register under that title.
- (5) The Council shall refer an application under subsection (4) to the Professional Conduct Committee.
- (6) The Professional Conduct Committee shall determine an application referred under subsection (5) and may decide—
  - (a) that the person's name is to be restored to the dental care professionals register under the title in question;
  - (b) that the person's name is not to be restored to that register under the title in question; or
  - (c) that the person's name is not to be restored to that register under the title in question until the end of such period as the Professional Conduct Committee shall specify.
- (7) If the Professional Conduct Committee give a direction under subsection (3) or a decision under subsection (6), the registrar shall forthwith serve on the person concerned notification of the direction or decision and (except in the case of a decision under subsection (6)(a)) of his right to appeal against it under section 36S.]



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### *[<sup>F18</sup>Registration appeals*

#### **Textual Amendments**

- F18** S. 36J and cross-heading inserted (coming into force in accordance with art. 1(4)-(7) of the amending S.I. (see the London Gazette, issue nos. 57734, 57975, 58050 and 58769, dated respectively 19.8.2005, 5.6.2006, 21.7.2006 and 18.7.2008)) by [The Dentists Act 1984 \(Amendment\) Order 2005 \(S.I. 2005/2011\)](#), **art. 30** (with [Sch. 7](#)) (with transitional provisions in [S.I. 2006/1671](#))

### **36J. Registration appeals**

Schedule 4A to this Act (registration appeals: dental care professionals register) shall have effect.]

### *[<sup>F19</sup>Use of titles and descriptions*

#### **Textual Amendments**

- F19** Ss. 36K-36V and cross-heading inserted (coming into force in accordance with art. 1(4)-(7) of the amending S.I. (see the London Gazette, issue nos. 57734, 57975, 58050 and 58769, dated respectively 19.8.2005, 5.6.2006, 21.7.2006 and 18.7.2008)) by [The Dentists Act 1984 \(Amendment\) Order 2005 \(S.I. 2005/2011\)](#), **art. 31** (with [Sch. 7](#)) (with transitional provisions in [S.I. 2006/1671](#))

### **36K. Use of titles and descriptions**

- (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*

### **[<sup>F20</sup>36L. Indemnity arrangements**

- (1) A registered dental care professional who practises as a member of a profession complementary to dentistry must have in force, in relation to each title under which he is registered in the dental care professionals register, an indemnity arrangement which provides appropriate cover for practising as such.
- (2) For the purposes of this section, an “indemnity arrangement” may comprise—
  - (a) a policy of insurance;
  - (b) an arrangement made for the purposes of indemnifying a person;

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- (c) a combination of the two.
- (3) For the purposes of this section, “appropriate cover”, in relation to practice as a member of a profession complementary to dentistry, means cover against liabilities that may be incurred in practising as such which is appropriate, having regard to the nature and extent of the risks of practising as such.
- (4) Rules may make provision in connection with the information to be provided to the registrar—
- (a) by or in respect of a person seeking registration in the dental care professionals register under a particular title (whether or not that person is already registered in that register under any other title or titles) for the purpose of determining whether, if his name is entered in the register under that title, there will be in force in relation to him by the time he begins to practise an indemnity arrangement which provides appropriate cover;
  - (b) by or in respect of a person seeking restoration of his name in the dental care professionals register under a particular title (whether or not that person is already registered in that register under any other title or titles) for the purpose of determining whether, if his name is restored in the register under a particular title, there will be in force in relation to him by the time he resumes practice an indemnity arrangement which provides appropriate cover; and
  - (c) by or in respect of a registered dental care professional seeking retention of his name in the dental care professionals register under a particular title for the purpose of determining whether, if his name is retained in the register, there will continue to be in force in relation to him an indemnity arrangement which provides appropriate cover.
- (5) Rules may make provision requiring a registered dental care professional to inform the registrar if there ceases to be in force in relation to him an indemnity arrangement which provides appropriate cover.
- (6) Rules may make provision requiring a registered dental care professional to inform the registrar if there is in force in relation to him appropriate cover under an indemnity arrangement provided by an employer.
- (7) Rules made under subsection (4) above may require the information mentioned there to be provided—
- (a) at the request of the registrar; or
  - (b) on such dates or at such intervals as the registrar may determine, either generally or in relation to individual dental care professionals or dental care professionals of a particular description.
- (8) Where in relation to any title in the dental care professionals register, a person fails to comply with rules made under subsection (4), or there is a failure to comply with rules made under subsection (4) in relation to him, 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; or
  - (c) erase his name from that register under that title.
- (9) Where a registered dental care professional is in breach of subsection (1) or fails to comply with rules made under this section—
- (a) the registrar may erase that person's name from the register: or

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- (b) the breach or failure may be treated as misconduct for the purposes of section 36N(2)(a), and the registrar may accordingly refer the matter to the Investigating Committee under section 36N(5)(a).
- (10) Where, under subsection (8)(c) or (9)(a), a person's name has been erased from the register 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 that person's case.
- (11) This section does not apply to a person who is registered by virtue of section 36Z3 (visiting dental care professionals from relevant European States).]

#### Textual Amendments

**F20** S. 36L substituted (17.7.2014) by [The Health Care and Associated Professions \(Indemnity Arrangements\) Order 2014 \(S.I. 2014/1887\)](#), art. 1(2), **Sch. 1 para. 5**

### *Professional conduct and fitness to practise*

#### **36M. Guidance**

- (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

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- (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—
  - <sup>F21</sup>(a) .....
  - (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.

#### **Textual Amendments**

**F21** S. 36M(8)(a) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 5 para. 35](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

### **36N. Allegations**

- (1) This section applies where an allegation is made to the Council against a registered dental care professional that his fitness to practise as a member of a profession complementary to dentistry is impaired.
- (2) A person's fitness to practise as a member of a profession complementary to dentistry shall be regarded as "impaired" for the purposes of this Act by reason only of—
  - (a) misconduct;
  - (b) deficient professional performance;
  - (c) adverse physical or mental health;
  - (d) a conviction or caution in the United Kingdom for a criminal offence, or a conviction elsewhere for an offence which, if committed in England and Wales, would constitute a criminal offence;
  - (e) the person having—
    - (i) accepted a conditional offer under section 302 of the Criminal Procedure (Scotland) Act 1995 (fixed penalty: conditional offer by procurator fiscal), or
    - (ii) agreed to pay a penalty under section 115A of the Social Security Administration Act 1992 (penalty as alternative to prosecution);
  - (f) the person, in proceedings in Scotland for an offence, having been the subject of an order under section 246(2) or (3) of the Criminal Procedure (Scotland) Act 1995 discharging him absolutely; or
  - (g) a determination by a body in the United Kingdom responsible under any enactment for the regulation of a health or social care profession to the effect

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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.

### **36O. The Investigating Committee**

- (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.

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- (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

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- (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.

### **36P. The Practice Committees**

- (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;

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- (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.

### **36Q. Resumed hearings**

- (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;



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- (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;

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- (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.

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

- (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;

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- (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).

### **36S. Appeals**

- (1) The following decisions are appealable decisions for the purposes of this section—
- (a) a decision of the Professional Conduct Committee under section 36I—

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- (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,

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- (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.

### **36T. Taking effect of directions for erasure, suspension, conditional registration etc.**

- (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.

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### **36U. Orders for immediate suspension and immediate conditional registration**

- (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.

*Status: Point in time view as at 19/10/2015.*

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### **36V. Interim orders**

- (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;

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

*[<sup>F22</sup>Supplementary provisions*

**Textual Amendments**

**F22** S. 36W and cross-heading inserted (coming into force in accordance with art. 1(4)-(7) of the amending S.I. (see the London Gazette, issue nos. 57734, 57975, 58050 and 58769, dated respectively 19.8.2005,



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5.6.2006, 21.7.2006 and 18.7.2008)) by [The Dentists Act 1984 \(Amendment\) Order 2005 \(S.I. 2005/2011\)](#), [art. 32](#) (with [Sch. 7](#)) (with transitional provisions in [S.I. 2006/1671](#))

### **36W. Supplementary provisions relating to fitness to practise cases**

- (1) While a person's registration in the dental care professionals register under a particular title is suspended by virtue of a direction or order under this Part—
  - (a) he shall be treated, except as provided in subsection (2), as not being registered in that register under that title, notwithstanding that his name still appears in that register; but
  - (b) sections 36N, 36O, 36P and 36Q shall continue to apply to him in relation to that title.
- (2) While a person's registration in the dental care professionals register under a particular title is suspended by virtue of a direction or order under this Part, he shall be treated for the purposes of compliance with rules made under section 36Z1 as if his registration were not so suspended.
- (3) Where any such direction as is mentioned in section 36Q(1)(b), (c) or (d), (2)(b) or (d), (3) or (5)(c) is given in relation to a person's registration in the dental care professionals register under a particular title while his registration under that title is subject to conditions or suspended by virtue of a direction under this Part, his registration under that title shall continue to be conditional or suspended throughout any period which may intervene between the time when (but for this subsection) his registration under that title would cease to be conditional or suspended, as the case may be, and 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) If, on the determination of an appeal under section 36S, a direction extending the current period of suspension or conditional registration for a further period takes effect after the time when (but for subsection (3)) the current period of suspension or conditional registration would have ended, that further period shall be treated as having started to run at that time.
- (5) Subsection (3) is subject to any order made under section 36U(1) or (2).
- (6) Schedule 4B to this Act (proceedings before the Investigating Committee, the Interim Orders Committee and Practice Committees: dental care professionals) shall have effect.]

### **[<sup>F23</sup>36X. Recording of suspension or conditional registration etc.**

- (1) Where a direction or order under this Part for suspension, conditional registration or variation of or addition to the conditions of registration takes effect in relation to a person, the registrar shall make a note in the dental care professionals register of that fact, of the title in relation to which the direction or order is made, and of the period for which that person's registration is to be suspended or made conditional.

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- (2) The registrar shall erase any note made in accordance with subsection (1) from the dental care professionals register at such time as the direction or order ceases (for any reason) to have effect.
- (3) In this section—
  - (a) a reference to a direction or order for suspension includes a reference to a direction or order extending a period of suspension and a direction for indefinite suspension; and
  - (b) a reference to a direction or order for conditional registration includes a reference to a direction or order extending a period of conditional registration.
- (4) Where a direction under section 36I(3) or 36P(7)(a) (direction for erasure from the dental care professionals register) in respect of a person takes effect, the registrar shall remove that person's name from registration in that register under the title in relation to which the direction is given.
- (5) Where a decision under section 36I(6)(a) or 36R that a person's name is to be restored to the dental care professionals register under a title takes effect, the registrar shall restore that person's name to that register under the title in relation to which the decision is made.

#### Textual Amendments

**F23** Ss. 36X-36Z2 inserted (coming into force in accordance with art. 1(4)-(7) of the amending S.I. (see the London Gazette, issue nos. 57734, 57975, 58050 and 58769, dated respectively 19.8.2005, 5.6.2006, 21.7.2006 and 18.7.2008)) by [The Dentists Act 1984 \(Amendment\) Order 2005 \(S.I. 2005/2011\)](#), **art. 33** (with [Sch. 7](#)) (with transitional provisions in [S.I. 2006/1671](#))

### 36Y. The Council's power to require disclosure of information

- (1) For the purpose of assisting the Council or any of their committees in carrying out functions under this Part, the Council may require a person ("the relevant party") whose fitness to practise as a member of a profession complementary to dentistry is in question, to provide details of any person—
  - (a) by whom the relevant party is employed to provide services in, or in relation to, any area of dentistry; or
  - (b) with whom he has an arrangement to provide such services.
- (2) For the purpose of assisting the Council or any of their committees in carrying out functions under this Part in respect of a person's fitness to practise as a member of a profession complementary to dentistry, the Council may require any person (except the person in respect of whom the information or document is sought) to supply any information or produce any document in his custody or under his control which appears to the Council relevant to the discharge of those functions.
- (3) Nothing in this section shall require or permit any disclosure of information which is prohibited by any relevant enactment.
- (4) For the purposes of subsection (3), "relevant enactment" means any enactment other than—
  - (a) this Act; or

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- (b) the non-disclosure provisions within the meaning of Part 4 of the Data Protection Act 1998 (see section 27 of that Act).
- (5) A person shall not be required to supply any information or produce any document under subsection (2) which he could not be compelled to supply or produce in civil proceedings before the relevant court.
- (6) In subsection (5) “the relevant court” means—
- (a) if the person’s address in the dental care professionals register is in Scotland or, if he is not registered in that register, he is resident there, the Court of Session;
  - (b) if the person’s address in that register is in Northern Ireland or, if he is not registered in that register, he is resident there, the High Court in Northern Ireland;
  - (c) in any other case, the High Court in England and Wales.
- (7) If a person fails to supply any information or produce any document within 14 days of being required to do so under subsection (1) or (2), the Council may seek an order of the relevant court requiring the information to be supplied or the document to be produced.
- (8) In subsection (7) “the relevant court” means the county court or, in Scotland, the sheriff.
- (9) In subsection (8) “the sheriff” means the sheriff in whose sheriffdom is situated the address of the person who fails to supply the information or produce the document; and in this subsection, “address” means, where the person is registered, his address in the dental care professionals register, or, where he is not registered in that register, the address where he resides.
- (10) For the purposes of subsection (4), “enactment” includes—
- (a) a provision of, or an instrument made under, an Act of the Scottish Parliament;
  - (b) a provision of, or an instrument made under, Northern Ireland legislation; and
  - (c) a provision of subordinate legislation (within the meaning of the Interpretation Act 1978).

#### Textual Amendments

**F23** Ss. 36X-36Z2 inserted (coming into force in accordance with art. 1(4)-(7) of the amending S.I. (see the London Gazette, issue nos. 57734, 57975, 58050 and 58769, dated respectively 19.8.2005, 5.6.2006, 21.7.2006 and 18.7.2008)) by [The Dentists Act 1984 \(Amendment\) Order 2005 \(S.I. 2005/2011\)](#), [art. 33](#) (with [Sch. 7](#)) (with transitional provisions in [S.I. 2006/1671](#))

### 36Z. Notification and disclosure by the Council

- (1) As soon as reasonably practicable after an allegation as to a person’s fitness to practise as a member of a profession complementary to dentistry has been referred to the Investigating Committee under section 36N(5)(a), the Council shall inform the following persons of that fact—
- (a) the Secretary of State, the Department of Health, Social Services and Public Safety in Northern Ireland, the Scottish Ministers and the National Assembly for Wales; and

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- (b) any person in the United Kingdom to whom subsection (2) applies.
- (2) This subsection applies to a person if the Council are aware that he—
  - (a) employs the person concerned to provide services in, or in relation to, any area of dentistry; or
  - (b) has an arrangement with the person concerned for that person to provide such services.
- (3) The Council or the registrar may disclose to any person any information relating to a person's fitness to practise as a member of a profession complementary to dentistry, including information relating to an allegation under section 36N, where they consider it to be in the public interest for the information to be disclosed.

#### **Textual Amendments**

**F23** Ss. 36X-36Z2 inserted (coming into force in accordance with art. 1(4)-(7) of the amending S.I. (see the London Gazette, issue nos. 57734, 57975, 58050 and 58769, dated respectively 19.8.2005, 5.6.2006, 21.7.2006 and 18.7.2008)) by [The Dentists Act 1984 \(Amendment\) Order 2005 \(S.I. 2005/2011\)](#), [art. 33](#) (with [Sch. 7](#)) (with transitional provisions in [S.I. 2006/1671](#))

### *Professional training and development requirements*

#### **36Z1 Professional training and development requirements**

- (1) In relation to each profession, or class of members of a profession, specified in regulations under section 36A(2), rules shall require registered dental care professionals to undertake such professional training and development as may be specified in the rules.
- (2) Where a person is registered in the dental care professionals register under a title applying to a particular profession, or class of members of a profession, and it appears to the registrar that the person has failed to comply with the requirements of rules under subsection (1) relating to that profession or class, the registrar may erase that person's name from registration in that register under that title.
- (3) Where, under subsection (2), 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) section 36L, and
    - (ii) any rules made under section 36Z2 which apply to his case.
- (4) Rules shall specify the procedures to be followed before the registrar—
  - (a) may, under subsection (2), erase a person's name from registration in the dental care professionals register under a title; or
  - (b) may, under subsection (3), make a decision whether or not to restore a person's name to that register under a title.
- (5) Where, in the course of proceedings under this Part, it appears to the Investigating Committee, a Practice Committee or the Interim Orders Committee that a person to whose registration the proceedings relate may be failing to meet the requirements of

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rules made under subsection (1), that Committee may refer the question of whether he is failing to meet them to the registrar.

### **36Z2 Restoration of names to the dental care professionals register: professional training and development**

- (1) Rules shall specify the requirements as to professional training and development to be met by a person who seeks the restoration of his name to the dental care professionals register under a particular title following its erasure from registration under that title under any provision of this Part.
- (2) Rules under this section must not require a person to do anything which amounts to the practice of dentistry.]

*[<sup>F24</sup>Visiting dental care professionals from relevant European States*

#### **Textual Amendments**

**F24** Ss. 36Z3, 36Z4 and cross-heading inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), 126

### **36Z3. Visiting dental care professionals from relevant European States**

- (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 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

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- (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.

#### **36Z4. Limits on section 36Z1 as respects visiting dental care professionals**

- (1) Subsections (1) and (2) of section 36Z1, 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)—

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- (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.]

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