
STATUTORY INSTRUMENTS

2005 No. 2011

The Dentists Act 1984 (Amendment) Order 2005

PART 1

General

Citation, interpretation and commencement

- 1.—(1) This Order may be cited as the Dentists Act 1984 (Amendment) Order 2005.
- (2) In this Order, “the Act” means the Dentists Act 1984(1).
- (3) The following articles shall come into force on the making of this Order—
- (a) this article;
 - (b) article 43 to the extent that it inserts sections 50C and 50D into the Act;
 - (c) article 44;
 - (d) article 45; and
 - (e) article 50(2) to (4).
- (4) Those provisions of this Order which confer powers enabling rules or regulations to be made by the General Dental Council, or orders to be made by the Privy Council, shall come into force on the making of this Order, but for the purpose only of the exercise of those powers.
- (5) The provisions of this Order in so far as they are not brought into force by paragraphs (3) and (4) shall come into force on such day as the Secretary of State may specify.
- (6) Different days may be specified under paragraph (5) for different purposes.
- (7) The Secretary of State shall notify any day specified and, if different purposes are specified, the purposes for which it is specified in the London, Edinburgh and Belfast Gazettes at least one week before that day.
- (8) Subject to paragraph (9), this Order shall extend to England and Wales, Scotland and Northern Ireland.
- (9) The extent of any amendment of any enactment or instrument in Schedule 6 to this Order is the same as that of the enactment or instrument amended.

Amendment of the Dentists Act 1984

- 2.—(1) The Act shall be amended in accordance with the following provisions of this Order.
- (2) Except where the context otherwise requires, references in this Order to Parts, sections and Schedules are references to Parts and sections of, and Schedules to, the Act.

(1) 1984 c. 24; this Act is amended by the Dentists Act 1984 (Amendment) Order 2001 (S.I. 2001/3926).

PART 2

The Council, their Committees and Registration

Amendment of section 1

3. In section 1 (constitution and general duties of the Council), for subsections (2) to (2C)(2) substitute—

“(2) The Council shall, when exercising their functions under this Act, have a general concern—

- (a) to promote high standards of education at all its stages in all aspects of dentistry; and
- (b) to promote high standards of professional conduct, performance and practice among persons registered under this Act.

(2A) The Council shall be constituted as provided by order of the Privy Council.

(2B) An order of the Privy Council made under subsection (2A) may contain such incidental, consequential, saving, transitional or supplementary provisions as appear to the Privy Council to be necessary or expedient.”

Amendment of section 2

4.—(1) In section 2 (Committees of the Council)—

(a) for subsections (1) to (4A)(3) substitute—

“(1) There shall continue to be committees of the Council known as—

- (a) the Professional Conduct Committee; and
- (b) the Health Committee.

(2) There shall also be established committees of the Council to be known as—

- (a) the Investigating Committee;
- (b) the Professional Performance Committee;
- (c) the Interim Orders Committee; and
- (d) the Registration Appeals Committee.

(3) In this Act, “Practice Committee” means the Professional Conduct Committee, the Health Committee or the Professional Performance Committee.”; and

(b) in subsection (7), omit “shall be contained in a statutory instrument, and”.

(2) The Preliminary Proceedings Committee, the Continuing Professional Development Committee and the Dental Auxiliaries Committee are abolished.

Insertion of sections 2A to 2D

5. After section 2 insert—

(2) Subsections (2A) to (2C) were inserted by S.I. [2001/3926](#).

(3) Subsection (4A) was inserted by S.I. [2001/3926](#).

“The Council’s duty to co-operate

2A.—(1) In the exercise of their functions, the Council shall co-operate in so far as reasonably practicable with public authorities, and other bodies and persons, falling within subsection (2).

- (2) Public authorities, bodies and persons fall within this subsection if—
- (a) they are concerned with the employment (whether or not under a contract of service) of registered dentists or registered dental care professionals;
 - (b) they provide, assess or fund education or training for those who are, or seek to become, registered dentists or registered dental care professionals, or they propose to do so;
 - (c) they regulate services in the provision of which registered dentists or registered dental care professionals are engaged;
 - (d) they carry out activities in connection with the services provided by the professions regulated under this Act; or
 - (e) they—
 - (i) are responsible for regulating or co-ordinating the regulation of health or social care professions not regulated under this Act, or
 - (ii) carry out activities in connection with the services provided by those professions.

(3) In carrying out their duty to co-operate under subsection (1), the Council shall have regard to any differing considerations in relation to the practice of dentistry which apply in England, Scotland, Wales and Northern Ireland.

Annual and other reports

2B.—(1) The Council shall prepare a report for each calendar year on the exercise of their functions in that year.

(2) The Council must submit each report prepared under subsection (1) to the Privy Council within the calendar year after the year to which the report relates.

(3) The first report prepared under subsection (1) shall relate to the last complete calendar year before the commencement of this subsection.

(4) The Privy Council shall, as soon as reasonably practicable after a report is submitted to it under subsection (2), lay a copy of that report before each House of Parliament and the Scottish Parliament.

(5) The Council shall publish at least once in each calendar year a statistical report which indicates the efficiency and effectiveness of the arrangements they have put in place to protect the public from persons whose fitness to practise as a dentist or as a member of a profession complementary to dentistry is impaired, together with the Council’s observations on the report.

Accounts

2C.—(1) The Council shall—

- (a) keep accounts, and
- (b) prepare a statement of accounts in respect of each calendar year,

in such form as the Privy Council may determine in writing.

(2) The Council shall appoint an auditor to audit each statement of accounts prepared in accordance with subsection (1)(b), and the auditor must prepare a report on each statement of accounts.

(3) The auditor appointed must be eligible for appointment as a company auditor under section 25 of the Companies Act 1989 or article 28 of the Companies (Northern Ireland) Order 1990.

(4) The Council shall, as soon as reasonably practicable after the end of each calendar year—

- (a) publish the statement of accounts for that year, together with the auditor’s report on it; and
- (b) send a copy of the statement of accounts and the report to the Privy Council and the Comptroller and Auditor General.

(5) The Comptroller and Auditor General shall examine, certify and report on each statement of accounts received under subsection (4) and for these purposes may inspect accounts kept by the Council in accordance with subsection (1)(a).

(6) The Comptroller and Auditor General shall send a copy of each report prepared by him under subsection (5) to the Council and the Privy Council.

(7) The Privy Council shall, as soon as reasonably practicable after the end of each calendar year, lay before each House of Parliament and the Scottish Parliament a copy of—

- (a) the statement of accounts for that year as certified by the Comptroller and Auditor General;
- (b) the auditor’s report for that year; and
- (c) the report of the Comptroller and Auditor General for that year.

Complaints

2D.—(1) The Council may incur expenditure for the purposes of investigating and resolving dental complaints.

(2) In this section “dental complaints” means complaints made by users of the services of registered dentists or the services of registered dental care professionals about—

- (a) the dental services provided by a registered dentist, a registered dental care professional or a body corporate carrying on the business of dentistry; or
- (b) the goods or materials provided to persons, or the facilities provided for persons, using those dental services.

(3) The Council may also incur expenditure for the purposes of assisting the parties to the dental complaint in reaching a satisfactory resolution of that complaint.”.

Substitution of section 14

6. For section 14 substitute—

“The dentists register and the registrar

14.—(1) There shall continue to be a register known as the dentists register (referred to in this Act as “the register”).

(2) The register shall be kept by a registrar appointed by the Council.

(3) Any person appointed to the office of registrar shall hold the office for such period and shall receive such salary as may be fixed by the Council.

(4) The registrar shall perform such duties in connection with the register as the Council may direct, and in the execution of his duties he shall act on such evidence as in each case appears to him sufficient.

(5) The registrar may delegate, either generally or specifically, any of his functions to any of the Council's officers.

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

- (a) is registered in the register,
- (b) is not registered in the register,
- (c) was registered in the register at a specified date or during a specified period,
- (d) was not registered in the register at a specified date or during a specified period, or
- (e) has never been registered in the register,

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

Amendment of section 18

7. In section 18 (procedure for registration)—

- (a) in subsection (1), after “registration” insert “in the register”;
- (b) in subsection (2), after “applying to be registered” insert “in the register”; and
- (c) in subsection (3), after “duly register” insert “in the register”.

Amendment of section 19

8. In section 19 (regulations with respect to the register)—

(a) for subsection (2)(4) substitute—

“(2) Regulations under this section may authorise the registrar to erase from the register the name of a person who, after such notices and warnings as may be prescribed by the regulations, fails to pay a fee prescribed under subsection (1)(b).

(2A) Where a person's name has been erased by virtue of regulations under this section, that name shall be restored to the register on that person's application if he satisfies the registrar that he meets the requirements of—

- (a) section 15(3)(a) to (c);
- (b) section 26A; and
- (c) any rules made under section 34B which apply to his case.

(2B) Where the registrar refuses to restore a person's name to the register under subsection (2A), the registrar shall forthwith serve on the person concerned notification of the decision and of the reasons for it.”; and

(b) omit subsections (3) and (4).

Repeal of sections 20 and 21

9. Section 20 (selection of proper abbreviations of overseas diplomas) and section 21 (notification of reasons for refusal of application for registration etc.) are hereby repealed.

(4) Subsection (2) was substituted by S.I. 1996/1496.

Substitution of section 22

10. For section 22 substitute—

“Publication of the register

22.—(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 register;
- (b) the qualifications of persons appearing in the register; and
- (c) 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 register, and any such copy or extract shall be evidence (and in Scotland sufficient evidence) of the matters mentioned in it.”

Amendment of section 23

11. In section 23 (erasure of names of deceased persons and of those who have ceased to practise)

—
(a) for subsection (4)(5) substitute—

“(4) Where a person’s name has been erased from the register under subsection (2) or (3) or at his request, then, unless the original entry of his name was incorrectly made or fraudulently procured, the name shall be restored to the register on his application if he satisfies the registrar that he meets the requirements of—

- (a) section 15(3)(a) to (c);
- (b) section 26A; and
- (c) any rules made under section 34B which apply to his case.”; and

(b) omit subsection (5).

Substitution of section 24

12. For section 24 substitute—

“Erasure on grounds of fraud or error

24.—(1) If the registrar is satisfied that any entry in the register has been incorrectly made, he shall erase that entry from the register.

(2) If the registrar has reason to believe that any entry in the 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 has been fraudulently procured, they may direct that the entry shall be erased from the register.

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

(5) The Council shall refer an application under subsection (4) to the Professional Conduct Committee.

(5) Subsection (4) was amended by S.I. 2001/3926.

(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 register;
- (b) that the person’s name is not to be restored to the register; or
- (c) that the person’s name is not to be restored to the register until the end of such period as they 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 29.”.

Repeal of section 25

13. Section 25 (alterations of names and addresses) is hereby repealed.

Insertion of section 25A

14.—(1) After section 25 insert—

“Registration appeals

Registration appeals

25A. Schedule 2A to this Act (registration appeals: dentists register) shall have effect.”.

(2) Schedule 1 to this Order, which inserts a new Schedule 2A into the Act, shall have effect.

Amendment of section 26

15. In section 26 (use of titles and descriptions)—

(a) after subsection (4) insert—

“(4A) The Council may make regulations—

- (a) prescribing a fee to be charged on the entry of a name in a list for the time being kept by them under subsection (4), or on the restoration of any entry to such a list;
- (b) prescribing a fee to be charged in respect of the retention of the name of a person in such a list.

(4B) Regulations under subsection (4A) may in particular authorise the registrar—

- (a) to refuse to make in or restore to a list for the time being kept by the Council under subsection (4) any entry until a fee prescribed by the regulations has been paid; and
- (b) to erase from such a list the name of a person who, after such notices and warnings as may be prescribed by the regulations, fails to pay a fee prescribed by the regulations in respect of the retention of a person’s name in that list.”;

(b) omit subsection (5);

(c) in subsection (6) omit “or (5)”; and

(d) for subsection (7) substitute—

“(7) The Council shall from time to time publish any list for the time being kept by them under subsection (4).”.

Insertion of section 26A

16. After section 26 insert—

“Insurance

Insurance

26A.—(1) A registered dentist must be covered by adequate and appropriate insurance throughout the period during which he is registered in the register.

(2) In this section “adequate and appropriate insurance” means insurance of a type and amount which rules under this section specify as adequate and appropriate.

(3) A person seeking registration in the register must supply the registrar with evidence that, if his name were to be entered in the register, he would be covered by adequate and appropriate insurance commencing, at the latest, on the date on which his name was so entered.

(4) A registered dentist seeking the retention of his name in the register must, before the commencement of the period for which he is seeking the retention of his name in the register, supply the registrar with evidence that he is covered by adequate and appropriate insurance.

(5) A person seeking the restoration of his name to the register must supply the registrar with evidence that, if his name were to be restored to the register, he would be covered by adequate and appropriate insurance commencing, at the latest, on the date on which his name was so restored.

(6) The registrar may at any other time require a registered dentist to supply him with evidence that he is covered by adequate and appropriate insurance, and a registered dentist must comply with such a requirement as soon as reasonably practicable.

(7) A registered dentist or (as the case may be) a person seeking registration in, or restoration of his name to, the register must inform the registrar forthwith if he is no longer covered by adequate and appropriate insurance or (as the case may be) arrangements under which he would be covered by such insurance are no longer in place.

(8) If a person fails to comply with the requirements of this section, the registrar may—

- (a) refuse to register his name in the register;
- (b) refuse to restore his name to the register;
- (c) erase his name from the register; or
- (d) refer the matter to the Investigating Committee under section 27(5)(a) as if the person’s failure to comply with the requirements of this section constituted an allegation that his fitness to practise as a dentist is impaired by reason of misconduct for the purposes of section 27.

(9) Where a person’s name has been erased from the register under subsection (8)(c), that name shall be restored to the register on that person’s application if he satisfies the registrar that he meets the requirements of—

- (a) section 15(3)(a) to (c);
- (b) this section; and
- (c) any rules made under section 34B which apply to his case.

(10) In this section “insurance” means—

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

PART 3

Fitness to practise, proceedings and appeals

Insertion of section 26B

17. Immediately before section 27 insert—

“Guidance

26B.—(1) The Council shall prepare and from time to time issue guidance as to the standards of conduct, performance and practice expected of registered dentists.

(2) Such guidance may make different provision in relation to different cases or classes of case.

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

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

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

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

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

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

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

(8) The bodies within this subsection are—

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

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

- (a) registered dentists,
 - (b) registered dental care professionals,
- but are not within subsection (8).

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

Substitution of sections 27 and 28

18. For sections 27 and 28 substitute—

“Allegations

27.—(1) This section applies where an allegation is made to the Council against a registered dentist that his fitness to practise as a dentist is impaired.

(2) A person’s fitness to practise as a dentist shall be regarded as “impaired” for the purposes of this Act by reason only of—

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

(3) It does not matter whether the allegation is based on a matter alleged to have occurred—

- (a) outside the United Kingdom; or
- (b) at a time when the person was not registered in the register.

(4) This section also applies in a case where—

- (a) it comes to the attention of the Council that a registered dentist’s fitness to practise as a dentist 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 dentist is impaired on the ground or grounds in question had been made to the Council against that person.

- (5) The registrar—
 - (a) shall refer the allegation to the Investigating Committee; and
 - (b) may also, if he considers it appropriate, refer the allegation to the Interim Orders Committee.
- (6) The registrar shall investigate the allegation for the purpose of exercising his functions under subsection (5).
- (7) In this section—
 - (a) “enactment” includes—
 - (i) a provision of, or an instrument made under, an Act of the Scottish Parliament,
 - (ii) a provision of, or an instrument made under, Northern Ireland legislation, and
 - (iii) a provision of subordinate legislation (within the meaning of the Interpretation Act 1978); and
 - (b) “regulatory body” means a regulatory body which has the function of authorising persons to practise as members of a health or social care profession.

The Investigating Committee

27A.—(1) Where the registrar refers an allegation under section 27 to the Investigating Committee they shall investigate the allegation and determine whether the allegation ought to be considered by a Practice Committee.

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

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

(3) If the Investigating Committee issue a warning under subsection (2)(a), they may, if they consider it appropriate to do so, direct the registrar to enter details of that warning in the entry in the 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 27(2)(b) (deficient professional performance),
 - (ii) to the Health Committee, in the case of an allegation based on the ground mentioned in section 27(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 27 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 27(2)(b) and an allegation or allegations based on any other grounds mentioned in section 27(2); or
- (b) an allegation based on the ground mentioned in section 27(2)(c) and an allegation or allegations based on any other grounds mentioned in section 27(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 27B(4); or
- (b) on an application made by the Council, the registrar, the person who is the subject of the allegation or allegations or any person making the allegation or allegations, but only if such review is carried out—
 - (i) where there is to be a hearing before that Practice Committee, before the commencement of that hearing, or
 - (ii) where there is not to be a hearing before that Practice Committee, before that Practice Committee have begun to consider written statements or representations.

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

(10) If the Investigating Committee determine, under subsection (1) or following a review under subsection (8), that an allegation or allegations against a person ought not to be considered by a Practice Committee, they shall, at the same time, revoke with immediate effect any interim order which has been made under section 32 in respect of that person in consequence of that allegation or those allegations.

The Practice Committees

27B.—(1) Subject to subsection (4), a Practice Committee must investigate an allegation or allegations against a person referred to them by the Investigating Committee under section 27A and determine whether that person’s fitness to practise as a dentist is impaired.

(2) In making a determination under subsection (1), the 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 26B, but that question is not of itself determinative of whether a person's fitness to practise as a dentist is impaired.

(3) If the person who is the subject of an allegation or allegations is also registered in the dental care professionals register, a Practice Committee shall, in exercising their function under subsection (1), make a separate determination under section 36P(1) (fitness to practise as a member of a profession complementary to dentistry).

(4) Where a Practice Committee consider that any allegation should not have been referred to them by the Investigating Committee under section 27A, they may refer that allegation back to the Investigating Committee.

(5) If a Practice Committee determine that a person's fitness to practise as a dentist 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.

(6) If a Practice Committee determine that a person's fitness to practise as a dentist is impaired, they may, if they consider it appropriate, direct—

- (a) (subject to subsection (7)) that the person's name shall be erased from the register;
- (b) that his registration in the register shall be suspended during such period not exceeding twelve months as may be specified in the direction;
- (c) that his registration in the register 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.

(7) The direction specified in subsection (6)(a) shall not be given following a determination that a person's fitness to practise as a dentist is impaired solely on the ground mentioned in section 27(2)(c) (adverse physical or mental health).

(8) Where a Practice Committee give a direction under subsection (6), 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 29.

(9) Where a Practice Committee make a determination under subsection (1) as to a person's fitness to practise as a dentist, they shall, at the same time, revoke any interim order which has been made under section 32 in respect of that person in consequence of the allegation, or allegations, to which that determination relates.

(10) The revocation of an interim order under subsection (9) 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 (6), forthwith; and
- (c) in the case of a direction given under paragraph (a), (b) or (c) of subsection (6), subject to section 30(5), from the time when—
 - (i) any direction given under those paragraphs takes effect in accordance with section 29A,
 - (ii) an appeal under section 29 against the decision giving such a direction is determined under section 29(3)(b) or (c), or

- (iii) following a decision on appeal to remit the case to a Practice Committee, the Practice Committee dispose of the case.

Resumed hearings

27C.—(1) Where a Practice Committee have given a direction under section 27B(6)(b) or subsection (2)(d) or (3) of this section that a person’s registration should be suspended, they may direct—

- (a) that the suspension shall be terminated;
- (b) that the current period of suspension shall be extended for such further period, specified in the direction and not exceeding twelve months, beginning with the date on which it would otherwise expire;
- (c) that the suspension shall be terminated and the person’s registration in the register 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 register 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 27B(6)(c), subsection (1)(c) or (5)(c) of this section or section 28(6)(b) imposing conditional registration, they may give one or more of the following directions—

- (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 register 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 27B(6)(c), subsection (1)(c), (2)(b) or (c) or (5)(c) of this section or section 28(6)(b) imposing conditions on a person’s registration, or extending a period of conditional registration, in the register, or
- (b) have made an order under section 32(4)(b) for interim conditional registration,

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 that the person’s registration in the 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 is to be suspended indefinitely, they must review the direction if—

- (a) the person requests them to do so;
 - (b) at least two years have elapsed since the date on which the direction took effect; and
 - (c) if the direction has previously been reviewed under this subsection, at least two years have elapsed since the date of the last such review decision.
- (5) On such a review a Practice Committee may—
- (a) direct that the suspension shall be terminated;
 - (b) confirm the direction to suspend the person’s registration indefinitely; or
 - (c) direct that the suspension shall be terminated and the person’s registration in the register 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 29.

Restoration of names to the register following erasure under section 27B

28.—(1) A person whose name has been erased from the register in accordance with a direction under section 27B(6)(a) may apply to the registrar for his name to be restored to the register.

(2) No application under this section for the restoration of a person’s name to the 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 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 dentist 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 that—

- (a) he is fit to practise as a dentist;
- (b) he meets the requirements of section 15(3)(a) to (c);
- (c) he meets the requirements of any rules made under section 34B which apply to his case; and
- (d) 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 register shall be conditional on his satisfying the registrar that he meets the requirements of section 26A (insurance);
- (b) a direction that a person’s registration in the register 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 29.

(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 29.

(9) Where, during the same period of erasure, a second or subsequent application 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 29.

(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).’.

Amendment of section 29

19. In section 29 (appeals)(6)—

(a) for subsections (1) and (1A) substitute—

“(1) The following decisions are appealable decisions for the purposes of this section—

(a) a decision of the Professional Conduct Committee under section 24—

- (i) giving a direction for erasure of a person’s name from the register under subsection (3) of that section, or
- (ii) refusing an application to restore a person’s name to the register, or refusing to restore his name until the end of a specified period, under subsection (6) of that section;

(6) Section 29 was amended by section 31 of the National Health Service Reform and Health Care Professions Act 2002 (c. 17).

- (b) a decision of a Practice Committee under section 27B or 27C giving 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 28—
 - (i) refusing to grant an application to restore a person’s name to the register,
 - (ii) giving a direction for conditional registration under subsection (6)(b) of that section, or
 - (iii) giving a direction under subsection (9) of that section suspending indefinitely the right to make further applications under that section.

(1A) 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.

(1B) Subject to subsection (1C), 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 24(7), 27B(8), 27C(6) or 28(7), (8) or (10), appeal against the decision to the relevant court.

(1C) Where—

- (a) any notification of a decision required to be served on a person under any of the provisions specified in subsection (1B) 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.

(1D) In subsection (1B) “the relevant court”—

- (a) in the case of a person whose address in the 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 the 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.”; and

(b) in subsection (3), for paragraphs (b) to (d) substitute—

- “(b) allow the appeal and quash the decision appealed against,
- (c) substitute for the decision appealed against any other decision which could have been made by the Professional Conduct Committee, the Professional Performance Committee or (as the case may be) the Health Committee, or
- (d) remit the case to the Professional Conduct Committee, the Professional Performance Committee or (as the case may be) the Health Committee to dispose of the case under section 24, 27B, 27C or 28 in accordance with the directions of the court.”.

Insertion of section 29A

20. After section 29 insert—

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

29A.—(1) This section applies to—

- (a) a direction for erasure given by the Professional Conduct Committee under section 24(3);
- (b) a direction for erasure, suspension, conditional registration or variation of or addition to the conditions of registration given by a Practice Committee under section 27B or 27C; and
- (c) a direction for conditional registration given by the Professional Conduct Committee under section 28(6)(b).

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

- (a) where no appeal under section 29 is brought against the decision giving the direction within the period of time specified in subsection (1B) 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 29(1C)—

- (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 29(1B) 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 29(1B), 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.”.

Substitution of section 30

21. For section 30 substitute—

“Orders for immediate suspension and immediate conditional registration

30.—(1) On giving a direction for erasure or for suspension under section 24(3), section 27B(6)(a) or (b) or section 27C(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 shall be suspended forthwith in accordance with this section.

(2) On giving a direction for conditional registration under section 27B(6)(c), section 27C(1)(c) or (5)(c) or section 28(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 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 register 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 29A;
- (b) an appeal under section 29 against the decision giving the direction is determined under section 29(3)(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 32 in respect of that person has been revoked by virtue of section 27B(9), 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 register is in Scotland, means the Court of Session;
- (b) in the case of a person whose address in the 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.”.

Repeal of section 31

22. Section 31 (special provisions where directions replace, or extend periods under, previous directions) is hereby repealed.

Substitution of section 32

23. For section 32 substitute—

“Interim orders

32.—(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 27(5)(b);
- (b) by the Investigating Committee under section 27A(4)(b) or (6)(b); or
- (c) by a Practice Committee in accordance with rules under paragraph 7(1)(c) of Schedule 3.

(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 27A(4)(a) or (6)(a); or
- (b) by another Practice Committee in accordance with rules under paragraph 7(1)(a) of Schedule 3.

(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 to be suspended or to be made subject to conditions, the Committee may make—

- (a) an order that his registration in the register 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 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 in relation to a person under any provision of this section (including this subsection), the Committee that made the order may—

- (a) revoke the order;
- (b) make an order adding to, varying or revoking any condition imposed by the order;
- (c) if satisfied that to do so is necessary for the protection of the public or is otherwise in the public interest, or is in the interests of the person concerned, replace an

interim suspension order with an order for interim conditional registration having effect for the remainder of the term of the former; or

- (d) if satisfied that to do so is necessary for the protection of the public or is otherwise in the public interest, or is in the interests of the person concerned, replace an order for interim conditional registration with an interim suspension order having effect for the remainder of the term of the former.

(7) If a Committee make an order under any provision of this section—

- (a) the registrar shall forthwith serve notification of the order on the person to whose registration it relates; and
(b) that order shall take effect from the time on which the notification mentioned in paragraph (a) is served.

(8) The Council may apply to the court for an order made by a Committee under subsection (4) or (6) to be extended, and may apply again for further extensions.

(9) On each such application the court may extend (or further extend) for up to twelve months the period for which the order has effect.

(10) Any reference in this section to an interim suspension order, or to an order for interim conditional registration, includes a reference to such an order as so extended.

(11) For the purposes of subsection (5) the first review after the court’s extension of an order made by a Committee or after a replacement order made by a Committee under subsection (6)(c) or (d) shall take place—

- (a) if the order (or the order which has been replaced) had not been reviewed at all under subsection (5), within the period of six months beginning with the date on which the court ordered the extension or on which a replacement order under subsection (6)(c) or (d) was made; and
(b) if it had been reviewed under subsection (5), within the period of three months beginning with that date.

(12) Where an interim order has effect under any provision of this section, the court may—

- (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 30(8).”.

Substitution of section 33

24.—(1) For section 33 substitute—

“Supplementary provisions

Supplementary provisions relating to fitness to practise cases

33.—(1) While a person’s registration in the register 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 the register notwithstanding that his name still appears in it; but
- (b) sections 27, 27A, 27B and 27C shall continue to apply to him.

(2) While a person's registration in the register 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 34A as if his registration were not suspended.

(3) Where any such direction as is mentioned in section 27C(1)(b), (c) or (d), (2)(b) or (d), (3) or (5)(c) is given while a person's registration is subject to conditions or suspended by virtue of a direction under this Part, his registration shall continue to be conditional or suspended throughout any period which may intervene between the time when (but for this subsection) his registration 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 29A;
- (b) an appeal under section 29 against the decision giving the direction is determined under section 29(3)(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 29, 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 30(1) or (2).

(6) Schedule 3 to this Act (proceedings before the Investigating Committee, the Interim Orders Committee and Practice Committees: dentists) shall have effect.”.

(2) Schedule 2 to this Order, which substitutes Schedule 3 to the Act, shall have effect.

Insertion of sections 33A to 33C

25. After section 33 insert—

“Recording of suspension or conditional registration etc.

33A.—(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 register of that fact and of the period for which that person's registration is to be suspended or made conditional.

(2) The registrar shall erase that note from the 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 24(3) or 27B(6)(a) (direction for erasure from the register) in respect of a person takes effect, the registrar shall remove that person's name from the register.

(5) Where a decision under section 24(6)(a) or 28 that a person's name is to be restored to the register takes effect, the registrar shall restore that person's name to the register.

The Council's power to require disclosure of information

33B.—(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 dentist 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 dentist, 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
- (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 register is in Scotland or, if he is not registered in the register, he is resident there, the Court of Session;
- (b) if the person's address in the register is in Northern Ireland or, if he is not registered in the 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 register, or, where he is not registered in the 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).

Notification and disclosure by the Council

33C.—(1) As soon as reasonably practicable after an allegation as to a person’s fitness to practise as a dentist has been referred to the Investigating Committee under section 27(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
- (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 dentist, including information relating to an allegation under section 27, where they consider it to be in the public interest for the information to be disclosed.”.

Repeal of section 34

26. Section 34 (restoration of name erased under section 27 of the Act) is hereby repealed.

Substitution of sections 34A and 34B

27. For sections 34A and 34B(7) substitute—

“Professional training and development requirements

34A.—(1) Rules shall require registered dentists to undertake such professional training and development as may be specified in the rules.

(2) If it appears to the registrar that a person has failed to comply with the requirements of rules made under subsection (1), the registrar may erase the person’s name from the register.

(3) Where a person’s name has been erased from the register under subsection (2), that name shall be restored to the register on that person’s application if he satisfies the registrar that he meets the requirements of—

- (a) section 15(3)(a) to (c);
- (b) section 26A; and
- (c) any rules made under section 34B which apply to his case.

(4) Rules shall specify the procedures to be followed before the registrar—

- (a) may erase a person’s name from the register under subsection (2); or
- (b) may make a decision whether or not to restore a person’s name to the register under subsection (3).

(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 rules made

(7) Sections 34A and 34B were inserted by S.I. [2001/3926](#).

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

Restoration of names to the register: professional training and development

34B.—(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 register following its erasure 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.”

Amendment of section 35

28. In section 35 (effect on registration of disqualification in another EEA state)—

- (a) in subsection (2)(a), for “or has misconducted himself in a professional respect” substitute “or on grounds related to his professional conduct, professional performance or physical or mental health”;
- (b) omit subsection (4); and
- (c) for subsection (5) substitute—

“(5) Where on or after the date on which a person was registered by virtue of section 15(1)(b) a disqualifying decision relating to him comes into force, this Part shall apply, with any necessary modifications, as if it had been found that he had been convicted of the criminal offence referred to in the disqualifying decision, or that his professional conduct, professional performance or physical or mental health had been such as is imputed to him by that decision, as the case may be.”

PART 4

Professions Complementary to Dentistry

Insertion of sections 36A to 36I

29. After section 36 insert—

“PART 3A

Professions Complementary to Dentistry

Introductory

Professions complementary to dentistry

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

- (a) the majority of whose members work in connection with the provision of dental care—
 - (i) with persons receiving such care, or

- (ii) with persons registered in the dentists register or the dental care professionals register established by section 36B; and
 - (b) in respect of which the regulatory body is not a body (other than the Council) regulated by the Council for the Regulation of Health Care Professionals under section 25 of the National Health Service Reform and Health Care Professions Act 2002.
- (2) The Council may by regulations specify—
- (a) a profession complementary to dentistry; or
 - (b) a class of members of a profession complementary to dentistry.
- (3) Regulations under subsection (2) specifying a profession or class of members must also specify a title which applies to that profession or class.
- (4) Regulations under subsection (2) shall not come into force until approved by order of the Privy Council.
- (5) Before making regulations under subsection (2), the Council shall consult organisations appearing to the Council to be representative of the professions, or classes of members of professions, specified in the proposed regulations.
- (6) The following provisions of this Part apply in relation to all members of a profession complementary to dentistry except those members of a profession or class in relation to which no regulations under subsection (2) are in force.

Education and registration

The dental care professionals register

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

Qualifications for registration

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

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

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

(3) Matter B is that the person—

- (a) either—
 - (i) is a national of an EEA State, or
 - (ii) is not a national of an EEA State but is, by virtue of a right conferred by article 11 of Council Regulation (EEC) No. 1612/68 or any other enforceable Community right, entitled to be treated, for the purposes of access to a profession complementary to dentistry, no less favourably than a national of such a State; and
- (b) has a right to practise in the United Kingdom as a dental hygienist or dental therapist (as the case may be) by virtue of the European Communities (Recognition of Professional Qualifications) (Second General System) Regulations 2002 (S.I.2002/2934).

(4) Matter C is that the person—

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

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

- (a) in all cases—
 - (i) shall take into account all that person’s relevant qualifications, and all relevant knowledge or experience, wherever acquired, and
 - (ii) may determine that a person must perform to the satisfaction of the Council in any test or assessment specified in the determination; and
- (b) in the case of a national of an EEA State (or a person within subsection (3)(a)(ii)) who holds a relevant qualification granted by an institution or institutions outside the EEA which has been accepted by another EEA State as qualifying

him to practise in that State as a member of the profession or class to which the title applies, shall take that acceptance into account.

- (6) Matter D is—
 - (a) the person’s identity;
 - (b) that he is of good character; and
 - (c) that he is in good health, both physically and mentally.
- (7) In this section “national” has the meaning given to it in section 15(2).

Education and training for members of professions complementary to dentistry

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

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

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

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

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

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

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

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

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

(7) Rules may make provision—

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

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

Procedure for registration

Rules relating to the dental care professionals register

36E. Rules may make provision relating to—

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

Fees

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

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

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

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

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

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

Publication of the dental care professionals register

Publication of the dental care professionals register

36G.—(1) The registrar shall make available to members of the public in such form as he considers appropriate—

- (a) the names of persons appearing in the dental care professionals register;
- (b) the title or titles under which a person is registered in that register;
- (c) the qualifications of persons appearing in that register; and
- (d) such other details as the Council may direct.

(2) For the purposes of subsection (1), the registrar may provide a member of the public with a copy of, or extract from, the dental care professionals register, and any such copy or extract shall be evidence (and in Scotland sufficient evidence) of the matters mentioned in it.

Erasures and alterations in the dental care professionals register

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

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

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

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

(4) Where, under subsection (2) or (3) or at a person's request, a person's name has been erased from registration under a particular title, that name shall be restored to the dental care

professionals register under that title on that person's application if the conditions specified in subsection (5) are met.

- (5) The conditions referred to in subsection (4) are that—
- (a) the original entry of the person's name in the dental care professionals register under the title in question was not incorrectly made or fraudulently procured;
 - (b) the person satisfies the registrar of Matter D within the meaning of section 36C; and
 - (c) the person also satisfies the registrar that he meets the requirements of—
 - (i) section 36L, and
 - (ii) any rules made under section 36Z2 which apply to his case.

Erasure on grounds of fraud or error

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

(2) If the registrar has reason to believe that any entry in the dental care professionals register has been fraudulently procured, he shall refer the matter to the Professional Conduct Committee to determine the question of whether that entry has been fraudulently procured.

(3) If the Professional Conduct Committee determine that the entry in the dental care professionals register has been fraudulently procured, they may direct that the name of the person to whom the entry relates shall be erased from registration under all titles under which he is registered in that register.

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

(5) The Council shall refer an application under subsection (4) to the Professional Conduct Committee.

(6) The Professional Conduct Committee shall determine an application referred under subsection (5) and may decide—

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

(7) If the Professional Conduct Committee give a direction under subsection (3) or a decision under subsection (6), the registrar shall forthwith serve on the person concerned notification of the direction or decision and (except in the case of a decision under subsection (6)(a)) of his right to appeal against it under section 36S."

Insertion of section 36J

30.—(1) After section 36I insert—

“Registration appeals

Registration appeals

36J. Schedule 4A to this Act (registration appeals: dental care professionals register) shall have effect.”.

(2) Schedule 3 to this Order, which inserts a new Schedule 4A into the Act, shall have effect.

Insertion of sections 36K to 36V

31. After section 36J insert—

“Use of titles and descriptions

Use of titles and descriptions

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

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

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

Insurance

Insurance

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

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

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

(4) A registered dental care professional seeking the retention of his name in the dental care professionals register under a particular title must, before the commencement of the period for which he is seeking the retention of his name in that register under that title, supply the registrar with evidence that he is covered by adequate and appropriate insurance in relation to that title.

(5) A person seeking the restoration of his name to the dental care professionals register under a particular title (whether or not he is already registered in that register under any other title or titles) must supply the registrar with evidence that, if his name were to be

restored to that register under that title, he would be covered by adequate and appropriate insurance in relation to that title commencing, at the latest, on the date on which his name was so restored.

(6) The registrar may at any other time require a registered dental care professional to supply him with evidence that he is covered by adequate and appropriate insurance in relation to a title under which he is registered, and a registered dental care professional must comply with such a requirement as soon as reasonably practicable.

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

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

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

- (a) refuse to register his name in that register under that title;
- (b) refuse to restore his name to that register under that title;
- (c) erase his name from registration in that register under that title; or
- (d) refer the matter to the Investigating Committee under section 36N(5)(a) as if the person's failure to comply with the requirements of this section constituted an allegation that his fitness to practise as a member of a profession complementary to dentistry is impaired by reason of misconduct for the purposes of section 36N.

(10) Where, under subsection (9)(c), a person's name has been erased from registration under a particular title, that name shall be restored to the dental care professionals register under that title on that person's application if he satisfies the registrar—

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

(11) In this section “insurance” means—

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

Professional conduct and fitness to practise

Guidance

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

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

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

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

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

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

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

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

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

(8) The bodies within this subsection are—

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

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

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

but are not within subsection (8).

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

Allegations

36N.—(1) This section applies where an allegation is made to the Council against a registered dental care professional that his fitness to practise as a member of a profession complementary to dentistry is impaired.

(2) A person's fitness to practise as a member of a profession complementary to dentistry shall be regarded as "impaired" for the purposes of this Act by reason only of—

- (a) misconduct;
- (b) deficient professional performance;
- (c) adverse physical or mental health;

- (d) a conviction or caution in the United Kingdom for a criminal offence, or a conviction elsewhere for an offence which, if committed in England and Wales, would constitute a criminal offence;
 - (e) the person having—
 - (i) accepted a conditional offer under section 302 of the Criminal Procedure (Scotland) Act 1995 (fixed penalty: conditional offer by procurator fiscal), or
 - (ii) agreed to pay a penalty under section 115A of the Social Security Administration Act 1992 (penalty as alternative to prosecution);
 - (f) the person, in proceedings in Scotland for an offence, having been the subject of an order under section 246(2) or (3) of the Criminal Procedure (Scotland) Act 1995 discharging him absolutely; or
 - (g) a determination by a body in the United Kingdom responsible under any enactment for the regulation of a health or social care profession to the effect that the person's fitness to practise as a member of that profession is impaired, or a determination by a regulatory body elsewhere to the same effect.
- (3) It does not matter whether the allegation is based on a matter alleged to have occurred—
- (a) outside the United Kingdom; or
 - (b) at a time when the person was not registered in the dental care professionals register.
- (4) This section also applies in a case where—
- (a) it comes to the attention of the Council that a registered dental care professional's fitness to practise as a member of a profession complementary to dentistry may be impaired on one or more of the grounds mentioned in subsection (2), but
 - (b) no allegation to that effect has been made to the Council against that person,
- and in such a case this Act shall apply as if an allegation or allegations to the effect that the person's fitness to practise as a member of a profession complementary to dentistry is impaired on the ground or grounds in question had been made to the Council against that person.
- (5) The registrar—
- (a) shall refer the allegation to the Investigating Committee; and
 - (b) may also, if he considers it appropriate, refer the allegation to the Interim Orders Committee.
- (6) The registrar shall investigate the allegation for the purpose of exercising his functions under subsection (5).
- (7) In this section—
- (a) “enactment” includes—
 - (i) a provision of, or an instrument made under, an Act of the Scottish Parliament,
 - (ii) a provision of, or an instrument made under, Northern Ireland legislation, and
 - (iii) a provision of subordinate legislation (within the meaning of the Interpretation Act 1978); and

- (b) “regulatory body” means a regulatory body which has the function of authorising persons to practise as members of a health or social care profession.

The Investigating Committee

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The Practice Committees

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

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

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

(4) If the person who is the subject of an allegation or allegations is also registered in the dentists register, a Practice Committee shall, in exercising their function under subsection (1), make a separate determination under section 27B(1) (fitness to practise as a dentist).

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

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

- (a) shall publish at his request a statement to that effect; or

(b) may publish such a statement if he consents.

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

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

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

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

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

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

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

- (a) in the case of a determination that the person's fitness to practise is not impaired, forthwith;
- (b) in the case of a direction given under paragraph (d) of subsection (7), forthwith; and
- (c) in the case of a direction given under paragraph (a), (b) or (c) of subsection (7), subject to section 36U(5), from the time when—
 - (i) any direction given under those paragraphs takes effect in accordance with section 36T,
 - (ii) an appeal under section 36S against the decision giving such a direction is determined under section 36S(6)(b) or (c), or
 - (iii) following a decision on appeal to remit the case to a Practice Committee, the Practice Committee dispose of the case.

Resumed hearings

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

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

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

- (a) a direction that the registration shall cease to be conditional from a date specified in the direction;
- (b) a direction that the current period of conditional registration shall be extended for such further period, specified in the direction and not exceeding three years, beginning with the date on which it would otherwise expire;
- (c) a direction that one or more of the conditions imposed on the registration shall be varied or revoked, or that those conditions shall be added to, as specified in the direction; or
- (d) a direction that the person’s registration in the dental care professionals register under that title shall be suspended during such period not exceeding twelve months as may be specified in the direction.

(3) Where a Practice Committee—

- (a) have given a direction under section 36P(7)(c), subsection (1)(c), (2)(b) or (c) or (5)(c) of this section or section 36R(6)(b) imposing conditions on a person’s registration, or extending a period of conditional registration, in the dental care professionals register under a particular title, or
- (b) have made an order under section 36V(4)(b) for interim conditional registration in relation to a particular title,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (a) that he is fit to practise as a member of the profession complementary to dentistry, or class of members of such a profession, in question;
 - (b) of Matter D within the meaning of section 36C;
 - (c) that he meets the requirements of any rules made under section 36Z2 which apply to his case; and
 - (d) that he meets any other requirements imposed in a direction under subsection (4)(b).
- (6) Where the Professional Conduct Committee grant an application, they may give one or both of the following directions—
- (a) a direction that the restoration of a person’s name to the dental care professionals register under the title in question shall be conditional on his satisfying the registrar that he meets the requirements of section 36L (insurance) in relation to that title;
 - (b) a direction that a person’s registration in that register under the title in question shall be conditional on his compliance, during such period not exceeding three years as may be specified in the direction, with such conditions specified in the direction as the Professional Conduct Committee think fit to impose for the protection of the public or in his interests.
- (7) If the Professional Conduct Committee refuse to grant an application, the registrar shall forthwith serve on the applicant notification of the Professional Conduct Committee’s decision and of his right to appeal against it under section 36S.
- (8) If the Professional Conduct Committee grant an application, the registrar shall forthwith serve on the applicant notification of the Professional Conduct Committee’s decision, and, in a case where a direction has been given under subsection (6)(b), of his right to appeal against that direction under section 36S.
- (9) Where, during the same period of erasure from registration in the dental care professionals register under a particular title, a second or subsequent application relating to that title under this section by the same person is unsuccessful, the Professional Conduct Committee may direct that his right to make any further such applications shall be suspended indefinitely.
- (10) If the Professional Conduct Committee give a direction under subsection (9), the registrar shall forthwith serve on the person concerned notification of the direction and of his right to appeal against it under section 36S.
- (11) Any person in respect of whom a direction has been given under subsection (9) may, after the end of the period of three years beginning with the date on which the direction took effect, apply to the registrar for the direction to be reviewed by the Professional Conduct Committee and, thereafter, may make further applications for review; but no such application may be made before the end of the period of three years beginning with the date of the most recent review decision.
- (12) On a review under subsection (11), the Professional Conduct Committee may—
- (a) confirm the direction under subsection (9); or
 - (b) direct that the person concerned may make an application under subsection (1).

Appeals

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

- (a) a decision of the Professional Conduct Committee under section 36I—

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

- (c) substitute for the decision appealed against any other decision which could have been made by the Professional Conduct Committee, the Professional Performance Committee or (as the case may be) the Health Committee, or
- (d) remit the case to the Professional Conduct Committee, the Professional Performance Committee or (as the case may be) the Health Committee to dispose of the case under section 36I, 36P, 36Q or 36R in accordance with the directions of the court,

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

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

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

36T.—(1) This section applies to—

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

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

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

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

- (a) subsection (2) shall apply to the direction as if the reference in paragraph (a) of that subsection to the period of time specified in section 36S(3) were a reference to that period as so extended, and
- (b) if the authorisation is given after the expiry of the period of time specified in section 36S(3), the direction shall be deemed not to have taken effect on the expiry of that period,

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

(4) In this section—

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

Orders for immediate suspension and immediate conditional registration

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

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

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

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

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

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

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

(7) A person in respect of whom an order under subsection (1) or (2) is made may apply to the court for an order terminating any suspension imposed under subsection (1) or any conditional registration imposed under subsection (2), and the decision of the court on any such application shall be final.

(8) In subsection (7) “the court”—

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

Interim orders

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

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

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

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

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

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

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

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

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

(6) Where an interim suspension order or an order for interim conditional registration has been made under any provision of this section (including this subsection) in relation to a person’s registration in the dental care professionals register under a particular title, the Committee that made the order may, in relation to that title—

- (a) revoke the order;
- (b) make an order adding to, varying or revoking any condition imposed by the order;
- (c) if satisfied that to do so is necessary for the protection of the public or is otherwise in the public interest, or is in the interests of the person concerned, replace an

interim suspension order with an order for interim conditional registration having effect for the remainder of the term of the former; or

- (d) if satisfied that to do so is necessary for the protection of the public or is otherwise in the public interest, or is in the interests of the person concerned, replace an order for interim conditional registration with an interim suspension order having effect for the remainder of the term of the former.

(7) If a Committee make an order under any provision of this section—

- (a) the registrar shall forthwith serve notification of the order on the person to whose registration it relates; and
 (b) that order shall take effect from the time on which the notification mentioned in paragraph (a) is served.

(8) The Council may apply to the court for an order made by a Committee under subsection (4) or (6) to be extended, and may apply again for further extensions.

(9) On each such application the court may extend (or further extend) for up to twelve months the period for which the order has effect.

(10) Any reference in this section to an interim suspension order, or to an order for interim conditional registration, includes a reference to such an order as so extended.

(11) For the purposes of subsection (5) the first review after the court's extension of an order made by a Committee or after a replacement order made by a Committee under subsection (6)(c) or (d) shall take place—

- (a) if the order (or the order which has been replaced) had not been reviewed at all under subsection (5), within the period of six months beginning with the date on which the court ordered the extension or on which a replacement order under subsection (6)(c) or (d) was made; and
 (b) if it had been reviewed under subsection (5), within the period of three months beginning with that date.

(12) Where an interim order has effect under any provision of this section in relation to a person's registration in the dental care professionals register under a particular title, the court may, in relation to that title—

- (a) in the case of an interim suspension order, terminate the suspension,
 (b) in the case of an order for interim conditional registration, revoke the order or revoke, vary or add to any condition imposed by the order,
 (c) in either case, substitute for the period specified in the order (or in an order extending it) some other period which could have been specified in the order (or in the order extending it) when it was made,

and the decision of the court on any application under this subsection shall be final.

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

Insertion of section 36W

32.—(1) After section 36V insert—

“Supplementary provisions

Supplementary provisions relating to fitness to practise cases

36W.—(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.”.

(2) Schedule 4 to this Order, which inserts a new Schedule 4B into the Act, shall have effect.

Insertion of sections 36X to 36Z2

33. After section 36W insert—

“Recording of suspension or conditional registration etc.

36X.—(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.

(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.

The Council's power to require disclosure of information

36Y.—(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
- (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).

Notification and disclosure by the Council

36Z.—(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
- (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.

Professional training and development requirements

Professional training and development requirements

36Z1.—(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 rules made under subsection (1), that Committee may refer the question of whether he is failing to meet them to the registrar.

Restoration of names to the dental care professionals register: professional training and development

36Z2.—(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.”.

PART 5

The Practice of Dentistry and Carrying on the Business of Dentistry

Amendment of section 37

34. In section 37 (definition of practice of dentistry)—

- (a) in subsection (1), for “For” substitute “Subject to subsection (1A), for”;
- (b) after subsection (1) insert—

“(1A) For the purposes of this Act, the practice of dentistry shall be deemed not to include the performance of any medical task by a person who—

- (a) is qualified to carry out such a task; and
- (b) is a member of a profession regulated by a regulatory body (other than the Council) listed in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002.”; and

(c) for subsection (2) substitute—

“(2) Dental work to which subsection (2A) or (2B) applies shall not be treated for the purposes of this Act as amounting to the practice of dentistry if it is undertaken under the direct personal supervision of—

- (a) a registered dentist; or
 - (b) a registered dental care professional of a kind authorised in rules under this section to carry out such supervision.
- (2A) This subsection applies to dental work if it is undertaken—
- (a) by a person recognised by a dental authority as a student of dentistry or by a medical authority as a medical student; and
 - (b) as part of a course of instruction or training approved by that authority for students of that kind or as part of an examination so approved.
- (2B) This subsection applies to dental work if it is undertaken by a person as part of—
- (a) a course of instruction or training which he is following in order to qualify for registration in the dental care professionals register under a particular title or titles; or
 - (b) an examination which he must pass in order to satisfy the requirements for registration in that register under a particular title or titles.”.

Amendment of section 38

35. In section 38 (prohibition on practice of dentistry by laymen), in subsection (1)(8), for the words from the beginning to “medical practitioner” substitute “A person who is not a registered dentist, a registered dental care professional or a visiting EEA practitioner entered in the list of such practitioners”.

Amendment of section 39

36. In section 39 (prohibition on use of practitioners' titles by laymen)—

- (a) for subsection (1)(9) substitute—

“(1) A person shall not take or use the title of dentist, dental surgeon or dental practitioner, either alone or in combination with any other word, unless he is a registered dentist or a visiting EEA practitioner entered in the list of such practitioners.”; and

- (b) after subsection (2) insert—

“(2A) A person who is not a registered dental care professional shall not take or use any title specified in regulations under section 36A(2), either alone or in combination with any other word.

(2B) No person shall take or use any title or description implying that he is a registered dental care professional unless he is a registered dental care professional.”.

Amendment of section 41

37. In section 41 (restriction on individuals)—

- (a) for subsections (1) to (3) substitute—

“(1) Subject to the provisions of this section, an individual who is not a registered dentist shall not carry on the business of dentistry unless—

- (a) he was engaged in carrying on the business of dentistry on 21st July 1955; or
- (b) he falls within a class of registered dental care professionals prescribed in rules under this section.

(8) Subsection (1) was amended by S.I. 1996/1496.

(9) Subsection (1) was amended by S.I. 1996/1496.

(1A) For the purposes of this section, an “authorised dental care professional” means an individual who falls within subsection (1)(b).

(1B) Any individual who contravenes this section shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) The exemption conferred by subsection (1)(a) on persons who were carrying on the business of dentistry on the date there mentioned shall not extend to any person who has at any time ceased to be a registered dentist in consequence of a Practice Committee giving a direction under section 27B or 27C or making an order under section 30(1) for the erasure of his name from the register, or for the suspension of his registration, following a relevant determination that his fitness to practise as a dentist is impaired.

(2A) For the purposes of subsection (2), a “relevant determination” that a person’s fitness to practise is impaired is a determination which is based solely on one or more of the grounds mentioned in paragraph (a), (d), (e), (f) or (g) of subsection (2) of section 27 (misconduct etc.).

(3) This section shall not operate to prevent a person from carrying on the business of dentistry during any period for which—

- (a) his registration in the register is suspended by virtue of a direction given by a Practice Committee under section 27B or 27C, or an order made by a Practice Committee under section 30(1), following a determination, based solely on the ground mentioned in paragraph (c) of subsection (2) of section 27 (adverse physical or mental health), that his fitness to practise is impaired, or
- (b) his registration in the dental care professionals register is suspended by virtue of a direction given by a Practice Committee under section 36P or 36Q, or an order made by a Practice Committee under section 36U(1), following a determination, based solely on the ground mentioned in paragraph (c) of subsection (2) of section 36N (adverse physical or mental health), that his fitness to practise is impaired,

and subsections (4) and (6) shall apply in relation to a person whose registration is so suspended as they apply in relation to a registered dentist or an authorised dental care professional.”;

- (b) in both subsection (4) and (6), for “registered medical practitioner” substitute “authorised dental care professional”;
- (c) in subsection (5), omit “or a registered medical practitioner”; and
- (d) after subsection (6) add—

“(7) Rules made under subsection (1)(b) shall not be amended or revoked in such a way that any class of registered dental care professionals prescribed in those rules ceases thereafter to be prescribed.”.

Repeal of section 42

38. Section 42 (restriction on bodies corporate) is hereby repealed.

Substitution of sections 43 and 44

39. For sections 43 and 44 substitute—

“Directors of bodies corporate

43.—(1) A body corporate commits an offence if it carries on the business of dentistry at a time when a majority of its directors are not persons who are either registered dentists or registered dental care professionals.

(2) Where a person is the subject of a decision erasing his name from, or suspending him from, a register kept by any of the regulatory bodies listed in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002, that person commits an offence if he is a director of a body corporate carrying on the business of dentistry at any time when such an erasure or suspension remains in effect.

(3) Any body corporate committing an offence under subsection (1), or any person committing an offence under subsection (2), shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Provision of information and payment of fees by bodies corporate

43A.—(1) The Council shall maintain a list, in such form as they consider appropriate, of bodies corporate which carry on the business of dentistry.

(2) Subject to subsections (3) and (4), a body corporate which carries on the business of dentistry shall, at intervals of no more than twelve months, provide the Council with the information specified in subsection (5).

(3) A body corporate which is carrying on the business of dentistry at the time when this section comes into force shall first provide the Council with the information specified in subsection (5) within the period of twelve months beginning with the date on which this section came into force.

(4) A body corporate which begins to carry on the business of dentistry after this section comes into force shall first provide the Council with the information specified in subsection (5) within the period of three months beginning with the date on which it begins to carry on that business.

(5) The information referred to in subsections (2), (3) and (4) is—

- (a) the address of the body corporate’s principal office;
- (b) the names of the directors of the body corporate and the addresses where they are resident;
- (c) the names of all persons who practise dentistry in the course of the business and the addresses where they are resident;
- (d) the names of all registered dental care professionals not falling within paragraph (b) or (c) who, in the course of the business, provide services in, or in relation to, any area of dentistry, and the addresses where they are resident; and
- (e) such further information as may be specified in rules.

(6) Rules may specify the form and manner in which the information specified in subsection (5) is required to be provided.

(7) The Council may make regulations providing that a fee is payable by a body corporate on each occasion on which that body is required to provide information in accordance with subsection (2), (3) or (4).

Financial penalties in relation to bodies corporate

43B.—(1) The registrar may refer to the Professional Conduct Committee for investigation information in his possession which indicates that there may be grounds for imposing a financial penalty under this section.

(2) For the purposes of this section, a “relevant requirement” means a requirement for a body corporate to—

- (a) provide information under subsection (2), (3) or (4) of section 43A;
- (b) provide such information in the form and manner specified in any rules under subsection (6) of that section; or
- (c) pay any fee in accordance with regulations under subsection (7) of that section.

(3) The Professional Conduct Committee may impose a financial penalty under this section if they are satisfied that a body corporate failed to comply with a relevant requirement.

(4) In such a case, a financial penalty may be imposed on—

- (a) the body corporate concerned;
- (b) any person who was a director of that body at the time of the body’s failure to comply with the relevant requirement in question; or
- (c) both that body corporate and one or more persons within paragraph (b).

(5) But a financial penalty shall not be imposed on a director or former director of the body corporate if he satisfies the Professional Conduct Committee that, at the time of the body’s failure to comply with the relevant requirement in question, he had taken all reasonable steps to ensure that the body complied with that requirement.

(6) A financial penalty imposed under this section—

- (a) in the case of a body corporate, must not exceed £5,000,
- (b) in the case of a person within subsection (4)(b), must not exceed £1,000,

and is payable within such period as the Professional Conduct Committee shall specify at the time the penalty is imposed.

(7) If it appears to the Council that there has been a change in the value of money since the last occasion when the maximum amount of the financial penalty under subsection (6) (a) or (b) was fixed, whether by this section or by an order under this section, the Council may by order substitute for the sum for the time being specified in paragraph (a) or (b) of that subsection such higher sum as appears to the Council justified by the change.

(8) The Council shall publish an order under subsection (7) in such form as they consider appropriate.

(9) An order under subsection (7) shall not have effect in relation to any case where the failure to comply with the relevant requirement in question occurred before the order came into force.

(10) Where the Professional Conduct Committee determine to impose a financial penalty under this section, the registrar shall forthwith serve on the person on whom the penalty is imposed notification of—

- (a) the imposition of the penalty;
- (b) the amount of the penalty;
- (c) the period within which it is to be paid; and
- (d) the person’s right to appeal under section 44B against any of the matters notified under paragraphs (a), (b) or (c).

(11) Subject to subsection (12), the Council may recover the financial penalty from the person on whom it was imposed if the penalty is not paid within the period specified under subsection (6).

(12) A penalty may not be recovered under subsection (11) while proceedings by way of appeal under section 44B(1) are pending, or during the period in which any such proceedings may be brought.

(13) The Council shall pay any sum paid as a financial penalty, or recovered under subsection (11), into the Consolidated Fund.

Further financial penalties on bodies corporate

44.—(1) The Professional Conduct Committee may, subject to subsection (5), impose a financial penalty on a body corporate if condition A or condition B is satisfied.

(2) Condition A is satisfied if, at a time when the body corporate is carrying on the business of dentistry, the name of a director of the body corporate is erased—

- (a) from the register by virtue of a direction under section 27B(6)(a); or
- (b) from registration in the dental care professionals register under any title by virtue of a direction under section 36P(7)(a).

(3) Condition B is satisfied if at a time when the body corporate is carrying on the business of dentistry the name of a member of the staff of the body corporate is so erased, and in the opinion of the Professional Conduct Committee—

- (a) the act or omission leading to the erasure was instigated, or connived at, by a director of the body corporate; or
- (b) if the act or omission was a continuing act or omission, a director of the body corporate had, or reasonably ought to have had, knowledge of its continuation.

(4) A financial penalty imposed under subsection (1)—

- (a) must not exceed £50,000; and
- (b) is payable within such period as the Professional Conduct Committee shall specify at the time the penalty is imposed.

(5) The Professional Conduct Committee shall not take a case into consideration under subsection (1) while proceedings by way of appeal are pending which may result in a decision that the name of the director or member of staff of the body corporate (as the case may be) should not be erased as described in subsection (2), or during the period in which any such proceedings may be brought.

(6) If it appears to the Council that there has been a change in the value of money since the last occasion when the maximum amount of the financial penalty under subsection (4) (a) was fixed, whether by this section or by an order under this section, the Council may by order substitute for the sum for the time being specified in subsection (4)(a) such higher sum as appears to the Council justified by the change.

(7) The Council shall publish an order under subsection (6) in such form as they consider appropriate.

(8) An order under subsection (6) shall not have effect in relation to any case where the erasure of the name which gave rise to the penalty occurred before the order came into force.

(9) Where the Professional Conduct Committee determine to impose a financial penalty on a body corporate under subsection (1), the registrar shall forthwith serve on the body corporate notification of—

- (a) the imposition of the penalty;

- (b) the amount of the penalty;
- (c) the period within which it is to be paid; and
- (d) the body corporate's right to appeal under section 44B against any of the matters notified under paragraphs (a), (b) or (c).

(10) Subject to subsection (11), the Council may recover the financial penalty from the body corporate if the penalty is not paid within the period specified under subsection (4)(b).

(11) A penalty may not be recovered under subsection (10) while proceedings by way of appeal under section 44B(2) are pending, or during the period in which any such proceedings may be brought.

(12) The Council shall pay any sum paid as a financial penalty, or recovered under subsection (10), into the Consolidated Fund.

(13) References in this section to the erasure of the name of a director or member of staff of a body corporate include references to the erasure of the name of any person who was a director or member of staff of the body corporate at the time of the act or omission leading to the erasure.

Supplementary provisions relating to financial penalties under sections 43B and 44

44A. Schedule 3 (proceedings before the Investigating Committee, the Interim Orders Committee and Practice Committees: dentists) applies to proceedings before the Professional Conduct Committee under section 43B or 44 with the following modifications—

- (a) references to proceedings under Part 3 of the Act shall be read as including proceedings under sections 43B and 44;
- (b) references to a Committee shall be read as references to the Professional Conduct Committee;
- (c) in paragraph 1—
 - (i) omit sub-paragraph (1), and
 - (ii) for sub-paragraph (2) substitute—
 - “(2) A “party” to proceedings means—
 - (a) the body corporate;
 - (b) any director or former director of the body corporate against whom the proceedings are brought; or
 - (c) the Council.”;
- (d) in paragraph 2—
 - (i) omit sub-paragraph (1)(b),
 - (ii) in sub-paragraph (2)(a), for “the person to whose registration the proceedings relate” substitute “the body corporate and any director or former director of the body corporate on whom a financial penalty may be imposed”, and
 - (iii) in sub-paragraph (2)(g), omit “the person (if any) making the allegation and”;
- (e) omit paragraph 5;
- (f) in paragraph 6(5), for paragraphs (a) and (b) substitute—
 - “(a) where the body corporate's principal office is in Scotland, the sheriff in whose sheriffdom that office is situated; and”;

- (g) omit paragraph 7.

Appeals relating to financial penalties

44B.—(1) A person on whom a financial penalty has been imposed under section 43B may, before the end of the period of 28 days beginning with the date on which notification of the penalty was served under section 43B(10), appeal to the relevant court against the imposition of the penalty, the amount of the penalty or the period within which the penalty is to be paid.

(2) A body corporate on which a financial penalty has been imposed under section 44 may, before the end of the period of 28 days beginning with the date on which notification of the penalty was served under section 44(9), appeal to the relevant court against the imposition of the penalty, the amount of the penalty or the period within which the penalty is to be paid.

(3) Where—

- (a) any notification required to be served on a person by section 43B(10) or 44(9) is given by sending it to that person by post, and
- (b) the registrar is satisfied, on the application of that person, that that person did not receive the notification within the period of 14 days beginning with the day on which the Professional Conduct Committee gave the determination to which the notification relates,

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.

(4) In subsections (1) and (2) “the relevant court”—

- (a) where the principal office of the body corporate is in Scotland, means the Court of Session;
- (b) where the principal office of the body corporate is in Northern Ireland, means the High Court in Northern Ireland; and
- (c) where the principal office of the body corporate is in any other place, means the High Court in England and Wales.

(5) In subsection (4)—

- (a) where a financial penalty has been imposed on a body corporate, “the body corporate” means that body; and
- (b) where a financial penalty has been imposed on a director or former director of a body corporate, “the body corporate” means the body whose failure to comply with a relevant requirement (within the meaning of section 43B) led to the imposition of the financial penalty.

(6) Subsections (3) and (4) of section 29 apply to appeals under this section as they apply to appeals under that section with the following modifications—

- (a) in subsection (3)(c) and (d), omit references to the Professional Performance Committee and the Health Committee; and
- (b) in subsection (3)(d), for “section 24, 27B, 27C or 28” substitute “section 43B or 44”.

PART 6

Further amendments

Repeal of Part 5

40. Part 5 (dental auxiliaries) is hereby repealed.

Insertion of section 49A

41.—(1) After section 49 insert—

“Advisers

49A. Schedule 4C to this Act (advisers) shall have effect.”.

(2) Schedule 5 to this Order, which inserts a new Schedule 4C into the Act, shall have effect.

Repeal of section 50

42. Section 50 (evidence etc in certain proceedings under the Dentists Act 1984) is hereby repealed.

Insertion of sections 50A to 50D

43. After section 50 insert—

“Service of notifications

50A.—(1) A notification under this Act which is required to be served on any person may be served, subject to subsections (4) and (6), by—

- (a) delivering it to that person personally;
- (b) leaving it at that person’s proper address;
- (c) sending it by a registered post service; or
- (d) sending it by a postal service which provides for the delivery of the notification by post to be recorded.

(2) For the purposes of this section and of section 7 of the Interpretation Act 1978 (which defines “service by post”) in its application to this section, the proper address of an individual (except in the cases mentioned in subsection (3)) is—

- (a) his address in the dentists register or the dental care professionals register (or, if he is not registered, the address which would have been shown if he were registered);
or
- (b) his last known address, if that differs from the address mentioned in paragraph (a) and it appears to the person serving the notification that the notification is more likely to reach him at that address.

(3) The cases referred to in subsection (2) are those where a notification is required to be served—

- (a) under section 27A(7) or section 36O(7), or in accordance with rules made under paragraph 2(2)(g) of Schedule 3 or paragraph 2(2)(g) of Schedule 4B, on a person making an allegation,

- (b) under section 43B(10) on a person who is a director or former director of a body corporate, or
- (c) in accordance with rules made under paragraph 2(2)(d) or (g) of Schedule 3 or paragraph 2(2)(d) or (g) of Schedule 4B on a person who may have an interest in certain proceedings,

and in such cases, for the purposes mentioned in subsection (2), the person's proper address is the address where he resides.

(4) A notification which is required to be served on a body corporate shall be duly served if it is served on an officer, secretary or clerk of that body.

(5) For the purposes of this section and of section 7 of the Interpretation Act 1978 in its application to this section, the proper address of a body corporate, or of an officer, secretary or clerk of that body, is—

- (a) that body's address as specified in the list maintained by the Council under section 43A; or
- (b) the address of that body's registered or principal office if—
 - (i) it appears to the person serving the notification that the notification is more likely to reach the body corporate or its officer, secretary or clerk at that address, or
 - (ii) there is no address specified in relation to that body in that list.

(6) Rules may provide for a notification which is required to be served on any person under this Act to be served by an electronic communication.

(7) Rules under subsection (6) shall secure that a notification cannot be served on a person by an electronic communication unless—

- (a) the person consents in writing to the receipt of notifications under this Act by electronic communication; and
- (b) the communication is sent to the number or address specified by that person when giving consent.

(8) In this section, "electronic communication" has the same meaning as in the Electronic Communications Act 2000.

(9) References in this section to serving a notification include references to sending a notification.

Publication of information

50B.—(1) Subject to subsection (2), any information or guidance which is to be published by the registrar, the Council or a Practice Committee in accordance with any provision of this Act may be published in such form and manner as the registrar, the Council or the Practice Committee (as the case may be) consider appropriate, including in electronic form.

(2) Information required to be published under rules under paragraph 2(2)(h) of Schedule 3 to this Act or paragraph 2(2)(h) of Schedule 4B to this Act shall be published in such manner as may be determined by those rules, and not by this section.

Rules

50C.—(1) Any power in this Act to make rules shall be exercisable by the Council.

(2) Rules made under this Act shall not come into force until approved by the Privy Council, except in the case of rules made under—

section 36B(4) (dental care professionals register);
 section 36D(6) and (7) (education and training for members of professions complementary to dentistry);
 section 36E (rules relating to the dental care professionals register);
 section 43A(5) and (6) (provision of information by bodies corporate); and
 paragraphs 4(2) and 8(1)(a) and (b) of Schedule 1 (the Council: supplementary provisions).

(3) The approval of the Privy Council shall be given by order made by the Privy Council.

(4) The Privy Council may approve rules as submitted to them, or subject to such modifications as appear to them to be requisite.

(5) Any power to make rules under this Act may be exercised—

- (a) so as to make different provision with respect to different cases or different classes of case or different provision in respect of the same case or class of case for different purposes of this Act; and
- (b) either in relation to all cases to which the power extends or in relation to all those cases subject to specified exceptions.

(6) Any power to make rules under this Act includes power to make any incidental, consequential, saving, transitional, transitory or supplementary provision which the Council consider necessary or expedient.

Rules: consultation requirements

50D.—(1) Before making rules under Schedule 3 or 4B, the Council shall consult—

- (a) such persons to whom subsection (2) applies as the Council consider appropriate;
- (b) the bodies within subsection (4); and
- (c) such bodies to which subsection (5) applies as the Council consider appropriate.

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

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

(3) The Council shall exercise their function under subsection (1)(a) so that the persons consulted are, taken together, representative of all the categories of person mentioned in subsection (2)(a) to (f).

(4) The bodies within this subsection are—

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

(5) 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 (4).

(6) Subsection (1) does not apply in relation to rules made under Schedule 3 as applied (with modifications) by section 44A (supplementary provisions relating to financial penalties in relation to bodies corporate), but before making such rules the Council shall consult—

- (a) the bodies corporate which carry on the business of dentistry; and
- (b) such organisations appearing to the Council to be representative of users of the services of those bodies corporate as the Council consider appropriate.”.

Amendment of section 51

44. In section 51 (exercise of powers conferred on Privy Council)—

- (a) the existing provision shall be numbered as subsection (1); and
- (b) after subsection (1) insert—

“(2) Any power of the Privy Council to make an order under this Act shall be exercisable by statutory instrument, except—

- (a) the power to make an order under section 11 (remedy where qualifying courses of study or examinations are inadequate); and
 - (b) the power to make an order under section 12 (candidates not to be required to adopt or reject particular theories of dentistry).
- (3) A statutory instrument which contains an order made by the Privy Council—
- (a) under section 1(2A) (constitution of the Council),
 - (b) approving rules under section 41(1) (restriction on individuals carrying on the business of dentistry),
 - (c) approving rules under Schedule 3 (proceedings before the Investigating Committee, the Interim Orders Committee and Practice Committees: dentists),
 - (d) approving rules under Schedule 4B (proceedings before the Investigating Committee, the Interim Orders Committee and Practice Committees: dental care professionals), or
 - (e) approving rules under Schedule 4C (advisers),

shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) Where a statutory instrument is made which contains an order made by the Privy Council approving regulations under section 36A(2) (professions complementary to dentistry)—

- (a) in the case of regulations to which subsection (5) applies, that instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament; and
- (b) in any other case, that instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament or of the Scottish Parliament.

(5) This subsection applies to regulations which specify a profession complementary to dentistry, or a class of members of such a profession, which, immediately before the revocation of the Dental Auxiliaries Regulations 1986 (S.I. 1986/887), constituted a class of dental auxiliaries regulated by those Regulations.

(6) Any act of the Privy Council under this Act shall be sufficiently signified by an instrument signed by the Clerk of the Privy Council.

(7) Any document purporting to be—

(a) an instrument made by the Privy Council under this Act, and

(b) signed by the Clerk of the Privy Council,

shall be evidence (and in Scotland sufficient evidence) of the fact that the instrument was so made and of its terms.”.

Amendment of section 52

45. In section 52 (regulations and other documents), after subsection (1) insert—

“(1A) Any power to make regulations under this Act may be exercised—

(a) so as to make different provision with respect to different cases or different classes of case or different provision in respect of the same case or class of case for different purposes of this Act; and

(b) either in relation to all cases to which the power extends or in relation to all those cases subject to specified exceptions.

(1B) Any power to make regulations under this Act includes power to make any incidental, consequential, saving, transitional, transitory or supplementary provision which the Council consider necessary or expedient.”.

Amendment of section 53

46.—(1) Section 53 (interpretation) is amended as follows.

(2) In subsection (1)(10)—

(a) after the definition of “the EEA agreement” insert—

““interim order” means—

(a) an interim suspension order under section 32(4)(a) or section 36V(4)(a); or

(b) an order for interim conditional registration under section 32(4)(b) or section 36V(4)(b);

“Practice Committee” shall be construed in accordance with section 2;

“profession complementary to dentistry” shall be construed in accordance with section 36A(1);”;

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

““registered dental care professional” means a person for the time being registered in the dental care professionals register under a title or titles;”;

(c) in the definition of “the registrar”, for “section 14(3)” substitute “section 14(2)”.

(3) After subsection (2) insert—

“(2A) In this Act references to a body corporate’s principal office mean, in the case of a body corporate registered outside the United Kingdom, that body’s principal office within the United Kingdom.”.

Amendment of Schedule 1

- 47.—(1) Schedule 1(11) (the Council: supplementary provisions) is amended as follows.
- (2) In paragraph 1—
- (a) in sub-paragraph (1), for paragraph (b) substitute—
- “(b) members who are registered dental care professionals; and”;
- (b) in sub-paragraph (2), for “Order in Council” substitute “order of the Privy Council”; and
- (c) in sub-paragraph (5), for “dental auxiliary” substitute “registered dental care professional”.
- (3) In paragraph 2(1)—
- (a) for “Order in Council” substitute “order of the Privy Council”; and
- (b) in paragraph (c), for “Her Majesty” substitute “the Privy Council”.
- (4) For the heading to paragraph 3, substitute “Members who are registered dentists or registered dental care professionals”.
- (5) In paragraph 3—
- (a) in sub-paragraph (1)—
- (i) for “Order in Council” substitute “order of the Privy Council”, and
- (ii) for paragraph (c) substitute—
- “(c) any other matter which appears to the Privy Council to be necessary or expedient in relation to the categories of members of the Council mentioned in paragraph 1(1)(a) and (b).”;
- (b) after sub-paragraph (1) insert—
- “(1A) An order under section 1(2A) shall in particular provide that a member who at the time of his election was a registered dentist or registered dental care professional is to be removed from office if he ceases to be registered in the register or (as the case may be) the dental care professionals register.”; and
- (c) omit sub-paragraphs (3) and (6).
- (6) In paragraph 4, omit sub-paragraph (5).
- (7) For paragraph 7 substitute—
- “7.—(1) Subject to section 43B(13) and section 44(12), the Council may, after paying their expenses, allocate any of their income to—
- (a) purposes connected with education or research in relation to—
- (i) the dental profession, or
- (ii) professions complementary to dentistry; or
- (b) any other public purpose connected with either or both of those professions.
- (2) In sub-paragraph (1), “expenses” includes the payments authorised under this Schedule to be made to members of the Council and their committees and the salaries and remuneration of the Council’s officers.”.
- (8) In paragraph 8—
- (a) in sub-paragraph (1)(b), after “section 2 of this Act,” insert “or to any officer of the Council.”;

- (b) in sub-paragraph (1)(c), for “subject as aforesaid,” substitute “subject to the provisions of this Act and in particular sub-paragraph (1A),”;
- (c) after sub-paragraph (1) insert—
 - “(1A) The power conferred by sub-paragraph (1)(c) does not include power to make any rules regulating the proceedings of the committees referred to in section 2 of this Act, in so far as the power to make such rules is specifically conferred by Schedule 3 or 4B to this Act.”; and
- (d) omit sub-paragraphs (2) and (3).

Repeal of Schedule 3A

- 48. Schedule 3A(12) (continuing professional development cases) is hereby repealed.

Minor and consequential amendments

- 49. The minor and consequential amendments contained in Schedule 6 to this Order shall have effect.

Transitional, transitory and saving provisions

- 50.—(1) The transitional, transitory and saving provisions contained in Schedule 7 to this Order shall have effect.

(2) The Privy Council may by order make such further transitional, transitory or saving provisions as it considers appropriate, and an order under this paragraph may, in particular, include requirements as to the education, training and practical experience which a person must satisfy during a period specified in the order in order to be entitled to be registered under a particular title in the dental care professionals register.

(3) The power to make an order under paragraph (2) is exercisable by statutory instrument and a statutory instrument containing such an order shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) Until such time as article 29 is in force, section 50D of the Act has effect, in relation to the making of any rules to which that section applies, as if, for any reference in that section to registered dental care professionals, there were substituted a reference to—

- (a) persons enrolled in the roll of dental hygienists referred to in regulation 21 of the Dental Auxiliaries Regulations 1986(13); and
- (b) persons enrolled in the roll of dental therapists referred to in regulation 25 of those Regulations.

A.K.Galloway
Clerk of the Privy Council

(12) Schedule 3A was inserted by S.I. 2001/3926.

(13) S.I. 1986/887, as amended by S.I. 1991/1706, 1996/2988, 1999/3460, 2002/1671 and 3135 and 2003/3105.