

2001 No. 3926

DENTISTS

The Dentists Act 1984 (Amendment) Order 2001

Made - - - - - 29th October 2001

Coming into force in accordance with article 1(2)

At the Court at Buckingham Palace, the 11th day of December 2001

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order in Council has been approved by a resolution of each House of Parliament in accordance with section 62(9) of the Health Act 1999^(a).

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by section 60 of that Act and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

PART I

GENERAL

Citation and commencement

1.—(1) This Order may be cited as the Dentists Act 1984 (Amendment) Order 2001.

(2) This article comes into force on the day on which this Order is made and the other provisions of this Order shall come into force on such day as the Secretary of State may specify.

(3) Different days may be specified under paragraph (2) for different provisions and any day so specified shall be caused to be notified in the London, Edinburgh and Belfast Gazettes published not later than one week before that date.

^(a) 1999 c. 8. An earlier draft of this Order was published for consultation in accordance with paragraph 9(1) of Schedule 3 to the Health Act.

Amendment of the Dentists Act 1984

2. The Dentists Act 1984(a) shall be amended in accordance with articles 3, 4, 5(2) and 6 to 10 of this Order.

PART II

CONSTITUTION OF THE COUNCIL

Amendment of section 1

3. In section 1 (constitution and general duties of the Council)—
- (a) after subsection (2) insert—
 - “(2A) The Council shall be constituted as Her Majesty may provide by Order in Council.
 - (2B) An Order in Council made under subsection (2A) above may contain such incidental, consequential, saving, transitional or supplementary provisions as appear to Her Majesty to be necessary or expedient.
 - (2C) An Order in Council made under subsection (2A) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.”;
 - (b) at the end of subsection (3) add “and, in particular, subsection (2A) above is subject to the provisions of that Part”.

Amendment of Schedule 1

4.—(1) Part I of Schedule 1 (the Council and Committees of the Council: supplementary provisions) shall be amended in accordance with the following paragraphs of this article.

- (2) For paragraphs 1 to 5 substitute—

“Constitution

- 1.—(1) The Council shall consist of—

- (a) members who are registered dentists;
- (b) members of classes of dental auxiliaries established by regulations under this Act; and
- (c) lay members.

(2) An Order in Council made under section 1(2A) of this Act shall provide for the numbers of each of the three categories of member mentioned in sub-paragraph (1) above.

(3) The number of members falling within sub-paragraph (1)(a) shall exceed the combined number of members falling within sub-paragraphs (1)(b) and (1)(c).

(4) A person shall not be disqualified from being appointed or elected as a member of the Council merely because he has already been a member.

(5) In this paragraph and paragraph 2, “lay member” means a member who is neither a registered dentist nor a dental auxiliary.

Lay members

- 2.—(1) An Order in Council made under section 1(2A) of this Act shall make provision for—

- (a) the appointment of lay members to the Council,
- (b) the tenure and termination of office of the lay members, and
- (c) any other matter which appears to Her Majesty to be necessary or expedient in relation to the lay membership of the Council.

(2) The lay members shall be appointed by Her Majesty on the advice of Her Privy Council.

(3) The Privy Council’s advice as to the appointment of lay members shall be such that, if accepted, the Council’s lay members would include at least one person from each of England, Scotland, Wales and Northern Ireland (meaning that he lives or works there, or mainly there).

(a) 1984 c. 24.

Registered dentist and dental auxiliary members

3.—(1) An Order in Council made under section 1(2A) of this Act shall, in relation to the members mentioned in paragraphs 1(1)(a) and (b) above, make provision for—

- (a) their tenure and termination of office,
- (b) by-elections, and
- (c) any other matter which appears to Her Majesty to be necessary or expedient in relation to the registered dentist and dental auxiliary membership of the Council.

(2) Council shall make rules to provide for an election scheme for the election of the members mentioned in paragraph 1(1)(a) and 1(1)(b) above.

(3) Such rules may provide for a scheme which—

- (a) makes different provision in relation to the two categories of member mentioned in those paragraphs, and
- (b) makes different provision for different cases or classes of case,

and may contain such incidental, consequential, saving, transitional or supplementary provisions as appear to the Council to be necessary or expedient.

(4) The election scheme must secure that the Council's membership includes at least one registered dentist from each of England, Scotland, Wales and Northern Ireland.

(5) A registered dentist is "from" England (etc.) if his address in the register is there at the time of his nomination.

(6) Rules under this paragraph shall not come into force until approved by order of the Privy Council contained in a statutory instrument.

Council President

4.—(1) The members of the Council shall elect one of their number to be President of the Council.

(2) The Council shall make rules providing for the method by which the President is to be elected and for any matters concerning the holding of the office of President that they deem necessary.

(3) Such rules may provide that the only persons eligible to be candidates shall be persons of a description specified in the rules.

(4) No person may be elected as President more than once.

(5) Rules under sub-paragraph (2) shall not come into force until approved by order of the Privy Council."

(3) In paragraph 6 (General powers of Council)—

- (a) in sub-paragraph (2), omit the words "(including those nominated by the General Medical Council)";
- (b) in sub-paragraph (4), omit the words from " , and no proceedings" to the end of the sub-paragraph.

PART III

COMMITTEES OF THE COUNCIL

Abolition of the Education Committee

5.—(1) The Education Committee mentioned in section 2(1) of the Dentists Act 1984 is abolished.

(2) Accordingly—

- (a) in section 2(1) (committees of the Council), omit "the Education Committee,";
- (b) omit section 13 (functions of the Education Committee) and the cross-heading preceding that section.

Amendment of section 2

6. In section 2 (committees of the Council)—
 - (a) omit subsections (3) and (5);
 - (b) in subsection (4), omit from “, which shall be constituted” to the end of the subsection;
 - (c) after subsection (4), insert—

“(4A) There shall be established a committee of the Council to be known as the Continuing Professional Development Committee.”;
 - (d) at the end, add—
 - “(6) The committees of the Council mentioned in this section shall be constituted as provided by order of the Privy Council.
 - (7) An order of the Privy Council made under subsection (6) shall be contained in a statutory instrument, and may contain such incidental, consequential, saving, transitional or supplementary provisions as appear to the Privy Council to be necessary or expedient.
 - (8) Some or all of the members of the committees mentioned in this section may be persons who are not members of the Council.”.

Amendment of Schedule 1

7.—(1) Schedule 1 (the Council and its committees: supplementary provisions) shall be amended in accordance with the following provisions of this article.

- (2) In paragraph 6, after sub-paragraph (2), insert—

“(2A) The Council shall also have power to pay the members of any of their committees such allowances and expenses as the Council may determine.”.
- (3) In paragraph 7(1), after “members” insert “and to the members of their committees,”.
- (4) In paragraph 8—
 - (a) in each of paragraphs (b) and (c) of sub-paragraph (1), for the words “Part II of this Schedule”, substitute “section 2 of this Act”;
 - (b) for sub-paragraph (2) substitute—

“(2) Rules under sub-paragraph (1) which include provision for appointing the members of the committees mentioned in section 2 of this Act shall not come into force until approved by order of the Privy Council.”.
 - (c) after sub-paragraph (2), as substituted by paragraph (4)(b) above, insert the following—

“(2A) Some or all of the members of committees of the Council may be persons who are not members of the Council.”.
- (5) Part II is omitted.

PART IV

PROFESSIONAL TRAINING AND DEVELOPMENT

Insertion of new sections 34A and 34B

8. After section 34 insert—

“Professional training and development

Professional training and development requirements

34A.—(1) The Council shall make rules requiring registered dentists to undertake professional training and development of descriptions specified in the rules.

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

(3) The Council shall make rules as to the procedures to be followed before the registrar may erase a registered dentist's name from the register under this section.

(4) Rules made under subsection (3) above shall provide for an appeal to the Continuing Professional Development Committee from a decision of the registrar to erase a registered dentist's name from the register.

(5) Schedule 3A (which provides for the procedures before the Continuing Professional Development Committee) shall apply in relation to such an appeal.

(6) Rules made under subsections (1) and (3) above shall not come into force until approved by order of the Privy Council.

(7) The registrar shall not erase a person's name from the register under this section—

(a) until the end of the period during which he may appeal to the Continuing Professional Development Committee by virtue of rules made under subsection (3) above, or

(b) if he does appeal to that Committee, until the appeal process (including any appeal to Her Majesty in Council) has been exhausted.

(8) The registrar shall serve on a registered dentist a notice of his decision to erase him from the register under this section and the reasons for it.

Restoration of name to the register: professional training and development

34B.—(1) The Council shall make rules providing for 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 Act.

(2) The rules—

(a) may make different provision for different cases and circumstances; but

(b) may not require a person to do anything which amounts to the practice of dentistry.

(3) If a person whose name has been erased from the register under section 34A above (whether or not following an appeal) satisfies the registrar—

(a) that he has met the requirements provided for by the rules in relation to his case or circumstances; and

(b) as to the matters specified in paragraphs (a) to (c) of section 15(3) above,
the registrar shall restore his name to the register.

(4) The Council shall make rules as to the procedures to be followed before the registrar may make a decision whether or not to restore a person's name to the register under this section.

(5) The registrar shall serve on such a person a notice of his decision and the reasons for it.

(6) Rules under subsection (4) above shall provide for an appeal to the Continuing Professional Development Committee from a decision of the registrar not to restore a person's name to the register under this section and Schedule 3A shall apply in relation to such an appeal.

(7) Rules made under subsection (1) or (4) above shall not come into force until approved by order of the Privy Council.”.

Insertion of new Schedule 3A

9. After Schedule 3 insert—

CONTINUING PROFESSIONAL DEVELOPMENT CASES

Procedure

1. A person who wishes to appeal to the Continuing Professional Development Committee must give them written notice of appeal within the period of 28 days beginning with the day on which he is served with notice of the registrar’s decision to erase his name from the register under section 34A of this Act or not to restore his name to the register under section 34B of this Act.

2.—(1) The Council shall make rules as to the procedure to be followed and rules of evidence to be observed in proceedings before the Continuing Professional Development Committee.

The Council shall in particular make rules—

- (a) for securing that notice that the proceedings are to be brought shall be given, at such time and in such manner as may be specified in the rules, to the person to whose registration the proceedings relate;
- (b) for securing that any party to the proceedings shall, if he so requires, be entitled to be heard by the Committee;
- (c) for enabling any party to the proceedings to be represented by counsel or solicitor, or (if the rules so provide and the party so elects) by a person of such other description as may be specified in the rules;
- (d) for requiring proceedings be held in public unless the person to whose registration the proceedings relate requests otherwise.

(2) Before making rules under this paragraph the Council shall consult such bodies of persons representing dentists as appear to the Council requisite to be consulted.

(3) Paragraphs 4 and 5(1) to (4) of Schedule 3 to this Act shall apply in relation to proceedings before the Continuing Professional Development Committee as they apply to proceedings before the Professional Conduct Committee and the Health Committee.

(4) Rules under this paragraph shall not come into force until approved by order of the Privy Council contained in a statutory instrument.

3.—(1) Where the Continuing Professional Development Committee determine under this Schedule that—

- (a) a person’s name shall be erased from the register or not restored to it, the Committee shall serve on him a notice of the determination and of his right to appeal against it under section 29 of this Act;
- (b) a person’s name shall remain on the register, they shall serve a notice on him accordingly,

and shall in either case notify the registrar of their determination.

(2) Where the Continuing Professional Development Committee determine that a person’s name shall be erased from the register, they shall direct the registrar accordingly.

References to other committees

4. Where, in the course of proceedings relating to a registered dentist before the Continuing Professional Development Committee, it appears to the Committee that—

- (a) the fitness of the registered dentist to practise may be seriously impaired by reason of his physical or mental condition;
- (b) he may have been convicted as mentioned in section 27(1)(a) of this Act; or
- (c) he may have been guilty of serious professional misconduct,

they may refer the matter to the Preliminary Proceedings Committee or to the Health Committee, whichever is appropriate.

Notices

5. Any notice required to be served on a person under section 34A or 34B of this Act or under paragraph 3 of this Schedule may be served by being sent, by a postal service which provides for the delivery of the notice by post to that person’s address in the register, or to his last known address if that address differs from his address in the register and it appears to the registrar that such service will be more effective or if he has no address in the register.”

PART V

PROFESSIONAL TRAINING AND DEVELOPMENT: SUPPLEMENTARY

10.—(1) In section 19 (regulations with respect to the register), at the end of subsection (2) insert “and as to his meeting the requirements specified in rules made under section 34B(1) below in relation to his case or circumstances”.

(2) In section 23 (erasure of names of deceased persons and those who have ceased to practise), at the end of subsection (4) insert “and as to his meeting requirements specified in rules made under section 34B(1) below in relation to his case or circumstances”.

(3) In section 29 (appeals)—

- (a) in subsection (1)(a) after “section 27 above”, insert “or paragraph 3 of Schedule 3A to this Act” and after “that section” insert “or that paragraph”;
- (b) in subsection (2), for “or the Health Committee” substitute “, the Health Committee or the Continuing Professional Development Committee”;
- (c) in subsection (3)(c), after “that” insert “(in the case of an appeal under section 27 above or a direction under section 28 above)”;
- (d) in subsection (3)(d), for “or the Health Committee” substitute “, the Health Committee or the Continuing Professional Development Committee” and after “section 27 or 28 above” insert “or under Schedule 3A to this Act”.

(4) In section 30 (time when determinations and directions normally take effect and orders for immediate suspension), in subsection (1), after “section 27 or 28 above”, insert “or Schedule 3A to this Act”.

(5) In section 34 (restoration of name erased under section 27)—

- (a) In subsection (1), for “subsection (2)”, substitute “subsections (2) and (4)”; and
- (b) after subsection (3), add—

“(4) A person whose name has been erased from the register under section 27 above shall not be entitled to have his name restored to the register until he has satisfied the Professional Conduct Committee as to the matters specified in paragraphs (a) to (c) of section 15(3) above and as to his meeting the requirements specified in rules made under section 34B(1) below in relation to his case or circumstances.”.

(6) In Schedule 3 (professional conduct and health cases), after paragraph 3 insert —

“Referrals to the registrar

3A. Where, in the course of any proceedings under section 27 or 28 of this Act it appears to the Preliminary Proceedings Committee, the Professional Conduct Committee or the Health Committee that a dentist may be failing to meet the requirements of the rules made under section 34A of this Act, that Committee may refer the question of whether he is failing to meet them to the registrar.”.

Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Dentists Act 1984 (“the Act”).

Article 1 provides for the other articles of the Order to come into force on days specified by the Secretary of State and for the notification of such days.

Articles 3 and 4 amend the provisions of the Act relating to the constitution of the General Dental Council (“the Council”) and its statutory committees. Article 3 amends section 1 of the Act so as to provide for Her Majesty by Order in Council to make provision with respect to the constitution of the Council. Article 4 amends Schedule 1 to the Act in relation to the composition of the Council, replacing the provisions in paragraphs 1 to 5 (which made detailed provisions as to the constitution of the Council and its committees) with new provisions setting out the principles and restrictions to be observed when making Orders in Council.

Article 5 abolishes the Education Committee as a statutory committee of the Council.

Article 6 amends section 2 of the Act to provide for the establishment of an additional committee of the Council, the Continuing Professional Development Committee.

Article 7 amends provisions of Schedule 1 to the Act which deal with committees of the Council.

Article 8 inserts new sections 34A and 34B into the Act establishing new requirements as to continuing professional development throughout a dentist’s professional career. The Council will be able to make rules prescribing the training and development to be undertaken by registered dentists and those seeking restoration to the register. A dentist shall not be entitled to retain his name on the register unless he complies with the prescribed requirements.

Article 9 inserts a new Schedule 3A into the Act setting out the procedures to be followed by the Continuing Professional Development Committee in deciding whether to erase a person’s name from the register, and when they are to refer a matter to the Preliminary Proceedings Committee or to the Health Committee.

Article 10 provides for consequential amendments as a result of the new requirements about continuing professional development.

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