
STATUTORY INSTRUMENTS

2005 No. 2011

The Dentists Act 1984 (Amendment) Order 2005

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 Part 5 (dental auxiliaries) is hereby repealed.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 Section 50 (evidence etc in certain proceedings under the Dentists Act 1984) is hereby repealed.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)(1)—

(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);”;

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

- (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;” and
- (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(2) (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(3) (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(4); and
- (b) persons enrolled in the roll of dental therapists referred to in regulation 25 of those Regulations.

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

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

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
