Draft Order in Council laid before Parliament and the Scottish Parliament under section 62(10) of the Health Act 1999, for approval by resolution of each House of Parliament and of the Scottish Parliament.

DRAFT STATUTORY INSTRUMENTS

2005 No.

HEALTH CARE AND ASSOCIATED PROFESSIONS

DENTISTS

The Dentists Act 1984 (Amendment) Order 2005

Made - - - -
Coming into force in accordance with article 1(3), (4) and (5)

At the Court at Buckingham Palace, the [ ] day of [ ] 2005

Present,

The Queen's Most Excellent Majesty in Council

Whereas the Secretary of State and the Scottish Ministers published a draft Order and invited representations as required by paragraph 9(1) and (3) of Schedule 3 to the Health Act 1999(**1**);

And whereas the period of three months mentioned in paragraph 9(4) of that Schedule expired before a draft of this Order in Council was laid before Parliament and the Scottish Parliament;

And whereas a draft of this Order in Council has been laid before and approved by resolution of each House of Parliament and the Scottish Parliament in accordance with section 62(10) of the Health Act 1999;

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by sections 60 and 62(4) of, and Schedule 3 to, 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:

(**1**) 1999 c. 8.

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(**2**).

(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.

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)(**3**) substitute—

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

(**2**) 1984 c. 24; this Act is amended by the Dentists Act 1984 (Amendment) Order 2001 (S.I. 2001/3926).
(**3**) Subsections (2A) to (2C) were inserted by S.I. 2001/3926.

(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)(**4**) 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—

"**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;

(**4**) Subsection (4A) was inserted by S.I. 2001/3926.

(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,