STATUTORY INSTRUMENTS

2009 No. 1808

HEALTH CARE AND ASSOCIATED PROFESSIONS

DENTISTS

PROFESSIONS COMPLEMENTARY TO DENTISTRY

The General Dental Council (Constitution) Order 2009

Made - - - - *6th July 2009*

Laid before Parliament *9th July 2009*

Coming into force in accordance with article 1(1)

At the Council Chamber, Whitehall, the 6th day of July 2009

By the Lords of Her Majesty's Most Honourable Privy Council

Their Lordships make the following Order in exercise of the powers conferred by section 1(2A) of, and paragraph 1B of Schedule 1 to, the Dentists Act 1984(**a**) and article 7(2) of the Health Care and Associated Professions (Miscellaneous Amendments and Practitioner Psychologists) Order 2009(**b**).

PART 1

Introductory

Citation, commencement and interpretation

1.—(1) This Order may be cited as the General Dental Council (Constitution) Order 2009 and—

(a) apart from article 5(h), comes into force on 1st October 2009;

(b) article 5(h) comes into force on the coming into force of section 44(1) of the Safeguarding Vulnerable Groups Act 2006(**c**) (registers: power to apply for vetting information).

(2) In this Order—

"chair" means the chair of the Council;

"final outcome", in relation to any proceedings where there are rights of appeal, means the outcome of the proceedings—

(**a**) 1984 c.24; section 1(2A) was inserted by S.I. 2001/3926 and substituted by S.I. 2005/2011, and paragraph 1B of Schedule 1 was inserted by S.I. 2009/1182.
(**b**) S.I. 2009/1182.
(**c**) 2006 c.47.

(a) once the period for bringing an appeal has expired without an appeal being brought; or

(b) if an appeal is brought in accordance with those rights, once those rights have been exhausted;

"licensing body" means any body, other than the Council, anywhere in the world that licenses or regulates any profession;

"member", unless the context otherwise requires, means a registrant member or a lay member and includes the chair; and

"spent conviction" means—

(a) in relation to a conviction by a court in Great Britain, a conviction that is a spent conviction for the purposes of the Rehabilitation of Offenders Act 1974(**a**); or

(b) in relation to a conviction by a court in Northern Ireland, a conviction that is a spent conviction for the purposes of the Rehabilitation of Offenders (Northern Ireland) Order 1978(**b**).

PART 2

Membership of the Council

Composition of the Council

2. The Council shall consist of 12 registrant members and 12 lay members.

Terms of office of members

3.—(1) The duration of the term of office of each member of the Council is to be determined by the Privy Council, on appointment.

(2) No member of the Council may hold office as a member of the Council for more than an aggregate of 8 years during any period of 20 years.

(3) For the purposes of the computation of years under paragraph (2), service as a member of the Council before 1st October 2005 is to be discounted.

Education and training of members

4. The Council shall make provision in standing orders with respect to the requirements with regard to education and training of members of the Council.

Disqualification from appointment as a member

5. A person is disqualified from appointment as a member of the Council if that person—

(a) has at any time been convicted of an offence involving dishonesty or deception in the United Kingdom and the conviction is not a spent conviction;

(b) has at any time been convicted of an offence in the United Kingdom, and—

(i) the final outcome of the proceedings was a sentence of imprisonment or detention, and

(ii) the conviction is not a spent conviction;

(c) has at any time been removed—

(i) from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners, the Charity Commission, the Charity Commission for

---

(**a**) 1974 c. 53.
(**b**) S.I. 1978/1908 (N.I. 27).

Northern Ireland or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity—

(aa) for which the person was responsible or to which the person was privy, or

(bb) which the person by their conduct contributed to or facilitated, or

(ii) under—

(aa) section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990(**a**) (powers of Court of Session to deal with management of charities), or

(bb) section 34(5)(e) of the Charities and Trustee Investment (Scotland) Act 2005(**b**) (powers of the Court of Session),

from being concerned with the management or control of any body;

(d) has at any time been removed from office as the chair, or as a member, convenor or director, of any public body on the grounds, in terms, that it was not in the interests of, or conducive to the good management of, that body that the person should continue to hold that office;

(e) at any time has been adjudged bankrupt or sequestration of the person's estate has been awarded, and—

(i) the person has not been discharged, or

(ii) the person is the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986(**c**) or Schedule 2A of the Insolvency (Northern Ireland) Order 1989(**d**) (which relate to bankruptcy restrictions orders and undertakings);

(f) has at any time made a composition or arrangement with, or granted a trust deed for, the person's creditors and the person has not been discharged in respect of it;

(g) is subject to—

(i) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986(**e**),

(ii) a disqualification order under Part 2 of the Companies (Northern Ireland) Order 1989(**f**) (company directors disqualification),

(iii) a disqualification order or disqualification undertaking under the Company Directors Disqualification (Northern Ireland) Order 2002(**g**), or

(iv) an order made under section 429(2) of the Insolvency Act 1986(**h**) (disabilities on revocation of a county court administration order);

(h) has been included by—

(i) the Independent Barring Board in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006(**i**) or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007(**j**)), or

(ii) the Scottish Ministers in the children's list or the adults' list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007(**k**));

(i) has at any time been subject to any investigation or proceedings concerning the person's fitness to practise by any licensing body, the final outcome of which was—

(**a**) 1990 c.40; section 7 was repealed by the Charities and Trustee Investment (Scotland) Act 2005 (asp 10), Schedule 4, paragraph 7(b).
(**b**) 2005 asp 10.
(**c**) 1986 c.45; Schedule 4A was inserted by section 257 of, and Schedule 20 to, the Enterprise Act 2002 (c.40).
(**d**) S.I. 1989/2405 (N.I. 19); Schedule 2A was inserted by S.I. 2005/1455 (N.I. 10).
(**e**) 1986 c.46.
(**f**) S.I. 1989/2404 (N.I. 18).
(**g**) S.I. 2002/3150 (N.I. 4); relevant amendments were made by S.I. 2005/1454 (N.I. 9).
(**h**) Section 429(2) was amended by the Enterprise Act 2002 (c.40), Schedule 23, paragraph 15.
(**i**) 2006 c.47.
(**j**) S.I. 2007/1351 (N.I. 11).
(**k**) 2007 asp 14.

(i) the person's suspension from a register held by the licensing body, and that suspension has not been terminated,

(ii) the erasure of the person's name from a register held by the licensing body or a decision that had the effect of preventing the person from practising the profession licensed or regulated by the licensing body, or

(iii) a decision that had the effect of only allowing the person to practise that profession subject to conditions, and those conditions have not been lifted;

(j) has at any time been subject to any investigation or proceedings concerning the person's fitness to practise by the Council, in the course of which or where the final outcome was that—

(i) the person's registration in the register was suspended (including by an interim suspension order or an order for immediate suspension) and that suspension has not been terminated,

(ii) the person's name was erased from the register (for a reason connected to the person's fitness to practise), or

(iii) the person's registration in the register was made conditional upon their compliance with any requirement (including by an order for interim conditional registration or an order for immediate conditional registration) and that requirement has not been lifted;

(k) has at any time been subject to any investigation or proceedings relating to an allegation that the person's entry in the register was fraudulently procured, the final outcome of which was the erasure of the person's name from the register;

(l) is or has been subject to any investigation or proceedings concerning the person's fitness to practise by—

(i) any licensing body, or

(ii) the Council,

and the Privy Council is satisfied that the person's membership of the Council would be liable to undermine public confidence in the regulation of registered dentists and dental care professionals; or

(m) has at any time been convicted of an offence elsewhere than in the United Kingdom and the Privy Council is satisfied that the person's membership of the Council would be liable to undermine public confidence in the regulation of registered dentists and dental care professionals.

Removal of members from office

6.—(1) A member shall be removed from office by the Privy Council, if—

(a) the member resigns, which a member may do at any time by a notice in writing to the Privy Council;

(b) in the case of—

(i) a registrant member, that member's registration is voluntarily terminated or otherwise lapses; or

(ii) a lay member, that member becomes a person who no longer satisfies the criteria for being a lay member in paragraph 1A(1)(b) of Schedule 1 to the Dentists Act 1984(**a**) (membership: general);

(c) the member becomes a person of the type mentioned in article 5(a), (b) or (e) to (h) (irrespective of whether or not they subsequently cease to be a person of the type mentioned in those provisions);

(d) the member becomes a person of the type mentioned in article 5(c) or (d);

(**a**) Paragraph 1A was inserted by S.I. 2009/1182.

(e) in the case of a registrant member, the member has become the subject of any investigation or proceedings concerning the member's fitness to practise by the Council, as a result of which—

(i) the member's registration in the register is suspended,

(ii) the member' name is erased from the register, or

(iii) the member's registration in the register is made conditional upon the member's compliance with any requirement,

and the proceedings relating to that particular sanction have reached their final outcome;

(f) in the case of a registrant member, the member has become the subject of any investigation or proceedings relating to an allegation that the person's entry in the register was fraudulently procured or incorrectly made, the final outcome of which is the erasure of the person's name from the register;

(g) the Privy Council is satisfied that the member's level of attendance at meetings of the Council falls below a minimum level of attendance acceptable to the Privy Council, having regard to—

(i) any recommended minimum levels of attendance that the Council have set in their standing orders, and

(ii) whether or not there were reasonable causes for the member's absences;

(h) the Privy Council is satisfied that the member has failed, without reasonable cause, to undertake satisfactorily the requirements with regard to education and training for members that apply to that member and which the Council have included in their standing orders;

(i) the Privy Council is satisfied that the member is no longer able to perform their duties as a member of the Council because of adverse physical or mental health;

(j) the Privy Council is satisfied that the member's continued membership of the Council would be liable to undermine public confidence in the regulation of registered dentists and dental care professionals.

(2) A member who becomes, or may be about to become, a person to whom paragraph (1)(b) to (f) applies must notify the Privy Council and the Council in writing of that fact as soon as the member becomes aware of it.

(3) Any member or employee of the Council may notify the Privy Council if they are of the view that the Privy Council may need to exercise its functions under paragraph (1).

(4) The chair shall notify the Privy Council if the chair is aware that—

(a) a member has become, or may be about to become, a person to whom paragraph (1)(b) to (f) applies; and

(b) that member has not notified the Privy Council in writing of that fact and the chair is not satisfied that the member will do so immediately.

Suspension of members from office

7.—(1) The Privy Council may suspend a member from office by a notice in writing served on the member—

(a) if the Privy Council has reasonable grounds for suspecting that the member has become a person to whom article 6(1)(b)(ii) to (d) applies, for the purposes of determining whether or not the member has become such a person;

(b) while the Privy Council is considering whether or not it is satisfied as to the matters set out in article 6(1)(g) to (j);

(c) if the member is subject to any investigation or proceedings concerning the member's fitness to practise by—

(i) any licensing body, or

(ii) the Council,

and the Privy Council is satisfied that it would not be appropriate for the member to continue to participate in proceedings of the Council while the investigation or proceedings concerning the member's fitness to practise is or are ongoing;

(d) if the member is subject to any investigation or proceedings concerning whether the member's entry in the register was fraudulently procured or incorrectly made and the Privy Council is satisfied that it would not be appropriate for the member to continue to participate in proceedings of the Council while the investigation or proceedings concerning the member's entry in the register is or are ongoing; or

(e) if the member is subject to any investigation or proceedings in the United Kingdom relating to a criminal offence, or elsewhere than in the United Kingdom relating to an offence which, if committed in any part of the United Kingdom, would constitute a criminal offence, and—

(i) either—

(aa) the investigation or proceedings relate to an offence involving dishonesty or deception, or

(bb) the final outcome of the investigation or proceedings may be that the person is sentenced to a term of imprisonment (whether suspended or not), and

(ii) the Privy Council is satisfied that it would not be appropriate for the member to continue to participate in proceedings of the Council while the investigation or proceedings is or are ongoing.

(2) The Privy Council shall suspend a registrant member from office by a notice in writing served on the member if the member is the subject of an interim order.

(3) The notice in writing under paragraph (1) or (2) shall set out the reasons for the suspension and the duration of the period of suspension, which shall (in the first instance) not be for more than 6 months.

(4) The Privy Council may stay its consideration under paragraph (1) of whether or not to suspend a member while the Council considers whether or not to suspend the member provisionally under standing orders of the Council.

(5) If a member has been suspended provisionally under standing orders of the Council—

(a) the Council shall notify the Privy Council in writing of the provisional suspension as soon as is reasonably practicable; and

(b) the Privy Council shall consider the matter with a view to determining whether or not to suspend the member under paragraph (1) or to remove the member under article 6(1).

(6) If after considering the matter under paragraph (5)(b), the Privy Council decides not to suspend the member, and not to remove the member from office, the Council must terminate their provisional suspension of the member under their standing orders.

(7) The Privy Council—

(a) may at any time review a suspension of a member by it; and

(b) shall review any suspension of a member by it after 3 months from the start of the period of suspension, if requested to do so by the suspended member.

(8) Following a review, the Privy Council may—

(a) terminate the suspension;

(b) if that review is within 3 months of the end of a period of suspension, extend the suspension for a further period of up to 6 months from the date on which the suspension would otherwise come to an end.

(9) The Privy Council shall notify the suspended member in writing of the outcome of any review and that notice shall include the reasons for any decision taken.

PART 3

Chair of the Council

Appointment, term of office and cessation of office of the chair

8.—(1) The Council shall appoint as their chair the member they elect from among their number to be chair.

(2) The term of office of a chair is to be determined by the Council on appointment, but it shall be for a period that is no longer than the period between the chair's date of appointment as chair and the date on which the chair's term of office as a member is due to expire (irrespective of whether or not they are thereafter reappointed as a member).

(3) A member serving as chair shall cease to be chair—

(a) on ceasing to be a member;

(b) if the member resigns as chair, which the member may do at any time by a notice in writing to the Council;

(c) if the member's membership of the Council suspended by the Privy Council; or

(d) if a majority of the Council, excluding the chair (but not simply a majority at a quorate meeting), votes to terminate the member's appointment as chair.

Transitional arrangements

9.—(1) Notwithstanding article 2, if paragraph (3) applies, the Council shall consist of 13 registrant and 12 lay members until the end of 31st December 2009.

(2) Notwithstanding article 8(1) and (2), if paragraph (3) applies, the person who was president of the Council on 30th September 2009 shall be appointed by the Privy Council to serve as the chair of the Council as constituted on 1st October 2009 until the end of 31st December 2009.

(3) This paragraph applies if the person who was president of the Council on 30th September 2009—

(a) is a registered dentist or registered dental care professional; and

(b) is reappointed to serve as a member of the Council from 1st October 2009 until the end of 31st December 2009.

Deputising arrangements in respect of the chair

10.—(1) Subject to paragraph (2), if, for any reason, the chair is absent from a meeting of the Council, the members who are present at that meeting shall nominate one of their number to serve as chair at that meeting.

(2) If, for any reason—

(a) the Council is on notice that their chair is likely—

(i) to be absent for more than one meeting of the Council, or

(ii) to be unavailable to perform the duties of a chair for more than one month; or

(b) the office of chair is vacant,

the Council may nominate a member ("deputy chair") to serve as chair during the absence or unavailability of the chair or the vacancy.

(3) A member serving as deputy chair shall cease to be deputy chair—

(a) in the case of—

(i) the absence or unavailability of the chair, on the date which the chair notifies the General Council in writing is the date on which they are able to resume their duties, or

(ii) the office of chair being vacant, once the vacancy is filled;

(b) if the member ceases to be a member;

(c) if the member resigns as deputy chair, which the member may do at any time by a notice in writing to the Council;

(d) if the member's membership of the Council is provisionally suspended by the Council or suspended by the Privy Council; or

(e) if the Council votes (by a majority at a quorate meeting) to terminate the member's appointment as deputy chair.

PART 4

Proceedings of the Council

Quorum of the Council

11. The quorum of the Council shall be 13.

Effect of vacancies etc. on the validity of proceedings

12.—(1) The validity of any proceedings of the Council shall not be affected by—

(a) any vacancy among the members of the Council;

(b) any defect in the appointment of a member of the Council;

(c) a member whom the Privy Council must remove from the Council under article 6(1)(b) to (f) participating in the proceedings;

(d) a member whom the Privy Council has removed under article 6(1) having participated in the proceedings; or

(e) a member who has been provisionally suspended by the Council under its standing orders or suspended by the Privy Council under article 7(1) or (2) having participated in the proceedings.

(2) Notwithstanding paragraph (1)(c), a member whom the Privy Council must remove from the Council under article 6(1)(b) to (f) is not entitled to participate in proceedings of the Council, pending the member's removal from the Council by the Privy Council.

Judith Simpson
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision with regard to the constitution of the General Dental Council ("the GDC"). The GDC is to consist of 12 registrant members, who are dentists or dental care professionals registered with the GDC, and 12 lay members (article 2). Their terms of office will be determined by the Privy Council – or if directed by the Privy Council to do so, the Appointments Commission – on appointment. There are limitations on the period for which members may serve on the GDC (article 3). The GDC is to make provision with regard to the education and training of its members in standing orders (article 4).

Certain categories of people, for example people who have been convicted of certain types of offences where the conviction is not spent, are disqualified from being members of the GDC, and once members have been appointed, there are certain circumstances in which they may be removed from office (articles 5 and 6). In some circumstances, a member may also be suspended from office, and there are provisions relating to the provisional suspension by the GDC itself, pending the taking of a decision by the Privy Council (or, in its place, the Appointments Commission) to suspend or remove that member (article 7).

There are also provisions relating to the appointment of the chair, who is to be elected from among the members of the GDC, but who will cease to be chair if that person is suspended as a member of the GDC or loses a vote of no confidence. The last president of the GDC before it was newly constituted by virtue of this Order will, if reappointed to the GDC as a temporary member, serve as the first chair of the newly constituted GDC for three months (articles 8 and 9). There are provisions relating to the deputising arrangements for the chair, and the GDC will have powers to appoint a deputy chair to serve during an absence of a chair that is likely to be for more than one month or one meeting, or if the position of chair is vacant (article 10).

There are also provisions relating to the proceedings of the GDC. Its quorum is 13, and there are special provisions to prevent the GDC's proceedings being invalidated by matters such as a vacancy or a defect in the appointment of a member (articles 11 and 12).

© Crown copyright 2009

Printed and published in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

STATUTORY INSTRUMENTS

2009 No. 1808

HEALTH CARE AND ASSOCIATED PROFESSIONS

DENTISTS

PROFESSIONS COMPLEMENTARY TO DENTISTRY

The General Dental Council (Constitution) Order 2009

£5.50

E4559 7/2009 194559T 19585