

Draft Order laid before Parliament and the Scottish Parliament under paragraphs 9(2) and (4) of Schedule 3 to the Health Act 1999, for approval by resolution of each House of Parliament and by the Scottish Parliament.

STATUTORY INSTRUMENTS

2022 No.

HEALTH CARE AND ASSOCIATED PROFESSIONS

PROFESSIONAL QUALIFICATIONS

The Dentists, Dental Care Professionals, Nurses, Nursing Associates and Midwives (International Registrations) Order 2022

Made - - - - *******

Coming into force *******

At the Court at Buckingham Palace, the ******* day of *******

Present,

The Queen's Most Excellent Majesty in Council

This Order is made in exercise of the powers conferred by sections 60(1)(a) and 62(4) and (4A) of, and Schedule 3 to, the Health Act 1999(a).

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 that Act.

(a) 1999 c.8. Section 60 was amended by paragraph 16 of Schedule 5 to the Nursing and Midwifery Order 2001 (S.I. 2002/253); section 26(9) of the National Health Service Reform and Health Care Professions Act 2002 (c.17); paragraph 1 of Schedule 8 to the Health and Social Care Act 2008 (c.14) ("the HSCA 2008"); sections 209, 210 and 213 of, and paragraphs 60 and 72 of, Schedule 15 to the Health and Social Care Act 2012 (c.7); paragraph 7 of Schedule 4 to the Pharmacy Order 2010 (S.I. 2010/231); paragraph 43 of Schedule 34 to the Human Medicines Regulations 2012 (S.I. 2012/1916); section 61(2) of, and paragraph 47 of Schedule 5 to, the Children and Social Work 2017 Act (c.16). Section 62 was amended by paragraph 1 of Schedule 4 to the National Health Service (Consequential Provisions) Act 2006 (c.43); and paragraph 2 of Schedule 8 to the HSCA 2008. Subsections (4) and (4A) were substituted in section 62 by paragraph 11 of Schedule 10 to the HSCA 2008. Schedule 3 was amended by section 26(10) of the National Health Service Reform and Health Care Professions Act 2002 (c.17); paragraph 8(b) of Schedule 4 to the Health and Social Work Professions Order 2002 (S.I. 2002/254); paragraph 67 of Schedule 11, and paragraph 1 of Schedule 14, to the Health and Social Care (Community Health and Standards) Act 2003 (c.43); sections 33 and 80 of, and Schedule 9 to, the Health Act 2006 (c.28); paragraphs 4 to 10 of Schedule 8, and paragraph 1 of Schedule 15, to the HSCA 2008; section 211 of, and paragraphs 61 and 72 of Schedule 15 to, the Health and Social Care Act 2012; section 61(4) of the Children and Social Work Act 2017 (c.16).

The period of three months mentioned in paragraph 9(4) of that Schedule expired before a draft of this Order, together with a report about consultation, was laid before Parliament and the Scottish Parliament.

A draft of this Order has been laid before, and approved by resolution of, each House of Parliament and the Scottish Parliament in accordance with section 62(10) of that Act(a).

Accordingly, Her Majesty is pleased, by and with the advice of Her Privy Council, to make the following Order.

Citation and commencement

1.—(1) This Order may be cited as the Dentists, Dental Care Professionals, Nurses, Nursing Associates and Midwives (International Registrations) Order 2022.

(2) This Order comes into force on [***].

Amendments to legislation

2.—(1) Schedule 1 (amendments to the Dentists Act 1984) has effect.

(2) Schedule 2 (amendments to the Nursing and Midwifery Order 2001) has effect.

(3) Schedule 3 (amendments to subordinate legislation) has effect.

(4) Schedule 4 (consequential amendments) has effect.

Saving and transitional provisions

3. Schedule 5 (saving provisions) has effect.

Revocation

4. The General Dental Council (Overseas Registration Examination Regulations) Order of Council 2015(b) is revoked.

Richard Tilbrook
Clerk to the Privy Council

Date

SCHEDULE 1

Article 2(1)

Amendments to the Dentists Act 1984

1. The Dentists Act 1984(c) is amended as follows.

Amendments to section 15

2. In section 15(d) (qualification for registration in the dentists register)—

(a) in subsection (1), for paragraph (c), substitute—

(a) Section 62(10) was amended by paragraph 2 of Schedule 8 to the HSCA 2008.

(b) S.I. 2015/735.

(c) 1984 c. 24.

(d) Section 15 was amended by S.I. 2019/593.

- “(c) any person who—
 - (i) holds an overseas diploma in dentistry, and
 - (ii) has satisfied the Council that he has the requisite knowledge and skill.”;
- (b) for subsection (2), substitute—
 - “(2) In this Act “overseas diploma” means—
 - (a) a relevant European diploma, or
 - (b) any other diploma granted in a country overseas.”;
- (c) in subsection (3), omit from “under paragraph” to “above”;
- (d) omit subsection (4);
- (e) in subsection (4ZA), for “Subsection (4)(c)” substitute “Subsection (1)(c)(ii)”;
- (f) omit subsection (6).

Omission of section 16

- 3. Omit section 16.

New section 16A

- 4. After section 16 (supplementary provisions as to registration of holders of overseas diplomas), insert—

“Supplementary provisions as to registration of holders of overseas diplomas

16A.—(1) The Council may satisfy themselves that a person has the requisite knowledge and skill mentioned in section 15(1)(c)(ii) (but see subsection (3))—

- (a) by requiring that person to undertake an assessment, or
- (b) in such other way as they consider appropriate.

(2) The Council may recognise an overseas diploma as furnishing such guarantees that the holder of that diploma possesses the requisite knowledge and skill as to warrant dispensing with further inquiry.

(3) If the overseas diploma held by a person has been recognised for the time being by the Council under subsection (2), that person will be taken to have satisfied the requirements of section 15(1)(c)(ii).

(4) Rules may make provision relating to the Council—

- (a) satisfying themselves that the person holding an overseas diploma has the requisite knowledge and skill;
- (b) recognising an overseas diploma under subsection (2);
- (c) charging fees to reflect costs reasonably incurred in accordance with subsection (1);
- (d) charging the institution concerned the reasonable costs incurred in recognising a diploma granted by that institution under subsection (2).”.

Amendments to section 17

- 5. In section 17 (temporary registration)—
 - (a) in subsection (1), for “a recognised” substitute “an”;
 - (b) omit subsection (5).

Amendments to section 36C

6. In section 36C(a) (qualifications for registration)—

(a) in subsection (4)(a), after “complementary to dentistry” insert “which is not a diploma in dentistry,”;

(b) omit subsections (5) and (6);

(c) at the end, insert—

“(8) Matter D is—

(a) the person’s identity,

(b) that the person has the necessary knowledge of English,

(c) that the person is of good character, and

(d) that the person is in good health, both physically and mentally.

(9) The Council may satisfy themselves that a person has the requisite knowledge and skill for the purposes of subsection (4)(b)—

(a) by requiring the person to undertake an assessment, or

(b) in such other way as they consider appropriate.

(10) The Council may recognise a relevant qualification as furnishing such guarantees that the holder of that qualification possesses the requisite knowledge and skill as to warrant dispensing with further enquiry.

(11) If the qualification held by a person has been recognised for the time being by the Council under subsection (10), that person will be taken to have satisfied the requirements of subsection (4)(b).

(12) Rules may make provision relating to the Council—

(a) satisfying themselves that the person holding a relevant qualification has the requisite knowledge and skill;

(b) recognising a relevant qualification under subsection (10);

(c) charging fees to reflect costs reasonably incurred in accordance with subsection (9);

(d) charging the institution concerned the reasonable costs incurred in recognising a qualification granted by that institution under subsection (10).”.

Amendments to section 50C

7. In section 50C(2)(b) (rules), at the appropriate place in the list, insert—

(a) “section 16A(4) (supplementary provisions as to registration of holders of overseas diplomas);”, and

(b) “section 36C(12) (qualifications for registration);”.

Amendment to section 50D

8. In section 50D(1)(c) (rules: consultation requirements), after “under” insert “section 16A or 36C or”.

Amendments to section 53

9. In section 53(1)(a) (interpretation)—

(a) Section 36C was inserted by article 29 of the Dentists Act 1984 (Amendment) Order 2005 (S.I. 2005/2011) (“the 2005 Amendment Order”).

(b) Section 50C was inserted by article 43 of the 2005 Amendment Order.

(c) Section 50D was inserted by article 43 of the 2005 Amendment Order, and prospectively amended by S.I. 2005/806.

- (a) after the definition of “the necessary knowledge of English” insert—
““overseas diploma” has the meaning given by section 15(2) above;”;
- (b) omit the definition of “recognised overseas diploma”.

SCHEDULE 2

Article 2(2)

Amendments to the Nursing and Midwifery Order 2001

Amendments to article 13

1. Article 13(b) (approved qualifications) of the Nursing and Midwifery Order 2001(c) is amended as follows.

2. In paragraph 1(d)(d)—

(a) for subparagraphs (i) and (ii) substitute—

- “(i) the Council is satisfied that, following any test of competence as it may require the applicant to take, he has the requisite standard of proficiency for admission to the part of the register in respect of which he is applying,
- (ii) his qualification has been approved by the Council in accordance with article 15(7) as demonstrating the requisite standard of proficiency for admission to the part of the register for which he is applying, or
- (iii) his qualification has been recognised by the Council as being of a comparable standard to a qualification mentioned in paragraph (1)(a);”.

3. In paragraph (2), in the words before paragraph (a), for “shall” substitute “may”.

4. In paragraph (3), for “(1)(d)(i)” substitute “(1)(d)(iii)”.

SCHEDULE 3

Article 2(3)

Amendments to subordinate legislation

Amendments to the Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules 2004

1.—(1) The Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules 2004(e) is amended as follows.

(2) In rule 6(1)(e)(f) (requirements for declarations of good health and good character)—

(a) in the words before paragraph (i), omit “, by a declaration signed”;

(b) for paragraphs (i) to (iii) substitute—

- “(i) (aa) where the applicant is registered to practise in a country, a declaration of good character signed on behalf of the licensing body in that country, or
- (bb) where the applicant is not so registered, written evidence of good character signed by the person providing that evidence, that satisfies

(a) Section 53(1) has been amended by S.I. 2005/806. There are other amendments but none are relevant.

(b) Article 13 is subject to savings provisions contained in S.I. 2019/593.

(c) S.I. 2002/253.

(d) Article 13(1)(d) was inserted by S.I. 2007/3101 and amended by S.I. 2015/806, 2018/838 and 2019/593.

(e) The Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules 2008 are scheduled to S.I. 2004/1767.

(f) Rule 6(1)(e) has been amended by S.I. 2007/3101 and 2018/838.

the Registrar of the applicant's good character such as a reference from an employer, an educational institution, or a person registered with the Council who is personally known to the applicant;

- (ii) a declaration of good health signed by—
 - (aa) a member of the occupational health department of a body that has employed or engaged the applicant who, on the basis of a health assessment of the applicant undertaken by that department within the previous 12 months, is able to attest to the matters set out in the declaration, or
 - (bb) a registered medical practitioner who has undertaken a health assessment of the applicant within the last 12 months;”.

Amendments to the General Dental Council (Overseas Registration Examination) Regulations 2015

2.—(1) Regulation 5 of the General Dental Council (Overseas Registration Examination) Regulations 2015(a) is amended as follows.

(2) In paragraph (2) at the end insert “(but see paragraphs (2A) and (2B))”.

(3) After paragraph (2) insert—

“(2A) In calculating the five year period referred to in paragraph (2), no account is to be taken of the period beginning on 2nd April 2020 and ending on the day one day after this paragraph comes into force.

(2B) Where a candidate had secured a place to sit Part 2 on 2nd April 2020 and on that date the candidate had less than 3 months of the five year period remaining, no account is to be taken of the period beginning on 2nd April 2020 and ending on the day 12 months after the day on which this paragraph comes into force.”.

SCHEDULE 4

Article 2(4)

Consequential amendments

Amendment to the Health Care and Associated Professions (Knowledge of English) Order 2015

1. For article 27 (rules: consultation requirements) of the Health Care and Associated Professions (Knowledge of English) Order 2015(b) substitute—

“27. In section 50D(1) (rules: consultation requirements) for “16A or 36C” substitute “16A, 27BA, 36C or 36PA”.”.

SCHEDULE 5

Article 3

Saving provisions

1. For the purposes of the assessment referred to in section 16A of the Dentists Act 1984, the General Dental Council (Overseas Registration Examination Regulations) Order in Council 2015 (c) (“the 2015 Order”) is saved and treated as though the Regulations in the Schedule to that Order

(a) The General Dental Council (Overseas Registration Examination) Regulations are scheduled to S.I. 2015/735.

(b) S.I. 2015/806.

(c) S.I. 2015/735.

were rules made under section 16A(4)(a) and (c) until the date 12 months after the date this Order comes into force (“the relevant date”).

2. On the relevant date—

- (a) for those candidates who have secured a date to sit all or a part of Part 2 of the Overseas Registration Examination, the 2015 Order will continue to apply for the purposes of that sitting only;
- (b) for all other candidates the 2015 Order will cease to apply, and the candidates will be subject to the rules made under section 16A(4)(a) and (c) of the Dentists Act 1984.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes amendments to the Dentists Act 1984 and to the Nursing and Midwifery Order 2001 in relation to the registration of people with qualifications issued outside the United Kingdom as dentists, dental care professionals, nurses, nursing associates and midwives.

In particular it makes provision for how such people will be required to demonstrate that they have the requisite knowledge and skill to go on the appropriate register. It also makes provision about declarations of good health and good character for nurses and midwives.

It also makes provision to exclude, for the purpose of calculating the five year period in which Part 2 of the Overseas Registration Examination for dentists must be undertaken, the period of time beginning on 2nd April 2020 until the day after this Order comes into force to make an allowance for the time when it was not possible undertake that examination. That five year period is extended by a further year for candidates who had secured a place to sit the examination on 2nd April 2020, and who had less than three months of that period remaining on that date.

An impact assessment has not been produced for this instrument as no, or not significant, impact on the private or voluntary sector is foreseen.