

Status: Point in time view as at 31/12/2015.

Changes to legislation: Medical Act 1983, SCHEDULE 4 is up to date with all changes known to be in force on or before 02 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE 4

Section 43

[^{F2}PROCEEDINGS BEFORE THE INVESTIGATION COMMITTEE, MEDICAL PRACTITIONERS TRIBUNALS AND INTERIM ORDERS TRIBUNALS]

Textual Amendments

- F1** Sch. 4 substituted (7.7.2004 for the substitution of Sch. 4 para. 5A(2) for specified purposes and paras. 1, 5A(1)(3)(3A)(9), 6, 7(3)(4)(6) as notified in the London Gazette dated 2.7.2004, 1.11.2004 in so far as not already in force as notified in the London Gazette dated 8.10.2004) by [The Medical Act 1983 \(Amendment\) Order 2002 \(S.I. 2002/3135\)](#), arts. 1(2)(3), **14** (with Sch. 2 and savings in The Medical Act 1983 (Amendment) Order 2002 (Saving Provision) Order of Council 2004 (S.I. 2004/1731), arts. 1(1), 2)
- F2** Sch. 4 title substituted (3.8.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), 7; S.I. 2015/1579, art. 2(d) (with art. 3)

[^{F3}Procedure of and evidence before the Investigation Committee, Medical Practitioners Tribunals and Interim Orders Tribunals]

Textual Amendments

- F3** Sch. 4 para. 1 cross-heading substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **8(1)**; S.I. 2015/1952, art. 2(e)

- 1 (1) Subject to the provisions of this paragraph, the General Council shall make rules ^{F4}...with respect to—
- (a) the reference of cases to the Investigation Committee [^{F5}or the MPTS];
 - [^{F6}(aa) the arrangements by the MPTS for a Medical Practitioners Tribunal or Interim Orders Tribunal to consider a matter;] and
 - (b) the procedure to be followed and rules of evidence to be observed in proceedings before [^{F7}the Investigation Committee or a Medical Practitioners Tribunal or Interim Orders Tribunal].
- [^{F8}(1A) The overriding objective of the General Council in making rules under this Schedule with respect to the procedure to be followed in proceedings before a Medical Practitioners Tribunal or an Interim Orders Tribunal, or with respect to the procedure to be followed by the Investigation Committee when deciding whether to give a warning under section 35C(6), is to secure that the Tribunal or Committee (as the case may be) deals with cases fairly and justly.]

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- [^{F9}(1B) Where the General Council consider that there is a conflict between meeting the objective under sub-paragraph (1A) and the over-arching objective, they must give priority to meeting the objective under sub-paragraph (1A).]
- (2) Rules made under this paragraph in connection with the consideration by the Investigation Committee of whether to warn a person regarding his future conduct or performance under section 35C(6) above shall include provision—
- (a) securing that notice shall be given to this effect to the person concerned;
 - (b) securing that the person concerned shall be entitled to make representations in writing to the Committee;
 - (c) securing that if the Committee determines that there should be an oral hearing, the person concerned shall, if he so requires, be entitled to be heard by the Committee;
 - (d) enabling the person concerned to be represented before the Committee by counsel or a solicitor, or (if the rules so provide and he so elects) by a person of such other description as may be specified in the rules; and
 - (e) securing that notice be served on the person concerned of any decision taken in relation to him by the Committee.
- [^{F10}(2ZA) Rules made under this paragraph in connection with the referral of a matter to, or the consideration of a matter by, a Medical Practitioners Tribunal or Interim Orders Tribunal may include provision for—
- (a) the Investigation Committee to continue to investigate the matter after the referral is made or consideration by the Tribunal has begun (as the case may be); and
 - (b) the withdrawal of the matter (or part of it) by the Investigation Committee if they decide that the matter (or part of it) should not be considered by a Medical Practitioners Tribunal or they are of the opinion that an Interim Orders Tribunal should not consider making an order.
- (2ZB) Section 35CC(1) applies to functions of the Investigation Committee by virtue of sub-paragraph (2ZA) as it applies to their functions under section 35C.]
- (2A) [^{F11}Rules made under this paragraph may include provision—
- (a) for enabling the Investigation Committee, whether before or after a matter has been referred to a Medical Practitioners Tribunal (but before the Tribunal's hearing of the matter has begun), and in such circumstances as may be specified in the rules, to agree with the person concerned that the person will comply with such undertakings as the Committee consider appropriate; and
 - (b) with respect to the procedure to be followed where any such undertakings are breached.
- (2B) Section 35CC(1) applies to the functions of the Investigation Committee by virtue of sub-paragraph (2A) as it applies to their functions under section 35C.
- (2C) Rules made under this paragraph may include provision—
- (a) for enabling the General Council, where a Medical Practitioners Tribunal find that a person's fitness to practise is impaired, to agree with the person concerned that the person will comply with such undertakings as the Council consider appropriate;

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- (b) for enabling a Medical Practitioners Tribunal to take any such undertakings into account;
 - (c) with respect to the procedure to be followed—
 - (i) where there is a breach of any such undertakings, or
 - (ii) where the General Council consider that any such undertakings should no longer apply and that a direction under section 35D should instead be given.
- (2D) Rules making provision by virtue of sub-paragraph (2C)(c) may, make provision—
- (a) for enabling or requiring a Medical Practitioners Tribunal to review whether the undertakings should continue to apply;
 - (b) for treating the requirements contained in the undertakings as if they were requirements specified in a direction given under section 35D(2)(c); and
 - (c) for enabling a Medical Practitioners Tribunal to give a direction under section 35D—
 - (i) where there is a breach of any such undertakings, or
 - (ii) where the General Council consider that any such undertakings should no longer apply.
- (2E) For the purposes of sub-paragraph (2D), the rules may apply sections 35D and 35E with such modifications, and may make such consequential modifications of this Act, as the Council think fit; and accordingly where the rules make such provision, references in this Act to section 35D or 35E include a reference to that section as so applied.]
- [^{F12}(2F) Where rules made under this paragraph include provision under sub-paragraph (2A) (a), the Investigation Committee or such person as is by virtue of sub-paragraph (2B) exercising the function conferred by the provision must, in exercising the function, have regard to the over-arching objective.
- (2G) Where rules made under this paragraph include provision under sub-paragraph (2C) (b), or provision under sub-paragraph (2C)(c) of the kind mentioned in sub-paragraph (2D), a Medical Practitioners Tribunal must, in exercising the function conferred by the provision, have regard to the over-arching objective.]
- (3) Rules made under this paragraph in connection with the consideration by [^{F13}an Interim Orders Tribunal or a Medical Practitioners Tribunal] of the making of an interim suspension order or an order for interim conditional registration under section 41A above, or in connection with the review of such an interim order, shall include provision—
- (a) 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 whom the proceedings relate;
 - (b) securing that a person in relation to whom an order has been made shall, if he so requires, be entitled to be heard by [^{F14}the Tribunal] on each occasion on which they review the order;
 - (c) enabling the person in relation to whom the order has been made to be represented before [^{F14}the Tribunal] by counsel or a solicitor, or (if the rules so provide and he so elects) by a person of such other description as may be specified in the rules;
 - (d) for service on the person to whom the proceedings relate of notice of any decision taken in relation to him by [^{F14}the Tribunal]; and

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- (e) determining when proceedings before [^{F14}the Tribunal] are to be held in public and when in private (including provision securing that they are to be held in public if the person to whom the proceedings relate so requests).
- (4) Rules made under this paragraph in connection with any other proceedings before [^{F15}a Medical Practitioners Tribunal] shall include provision—
- (a) 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) securing that any party to the proceedings shall, if he so requires, be entitled to be heard by [^{F16}a Tribunal];
 - (c) enabling any party to the proceedings to be represented before [^{F17}the Tribunal] by counsel or a 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) ^{F18}... for proceedings before [^{F16}a Tribunal] to be held in public unless and to the extent that the rules provide otherwise; ^{F19}...
 - ^{F19}(e)
- [^{F20}(4A) Rules made under this paragraph in connection with any proceedings before a Medical Practitioners Tribunal may include provision for preliminary hearings.
- (4B) Rules made under this paragraph in connection with any proceedings before a Medical Practitioners Tribunal or Interim Orders Tribunal which include provision with respect to the consequences of a failure to comply with those rules or with directions given by the Tribunal or a case manager appointed under paragraph 7A may, in particular—
- (a) where the failure relates to the admission of evidence, enable the Tribunal to refuse to admit the evidence and enable a case manager appointed under paragraph 7A to direct the Tribunal to consider whether to admit the evidence;
 - (b) confer power on the Tribunal to draw adverse inferences;
 - (c) confer power on the Tribunal to award costs (or, in Scotland, expenses).
- (4C) Rules made under this paragraph in connection with any proceedings before a Medical Practitioners Tribunal or Interim Orders Tribunal may include provision for the award of costs (or, in Scotland, expenses) in a case where a party's, or a party's representative's, conduct of the proceedings has been unreasonable.
- (4D) Provision by virtue of sub-paragraph (4B)(c) or (4C) may, in particular, include—
- (a) provision for assessment or taxation of costs (or, in Scotland, taxation of expenses);
 - (b) provision for a wasted costs order (or, in Scotland, wasted expenses order);
 - (c) provision requiring regard to be had to a party's ability to pay;
 - (d) provision conferring on either party a right of appeal against an award of costs to the High Court (or, in Scotland, against an award of expenses to the Court of Session);
 - (e) provision for the enforcement of an award of costs (or, in Scotland, expenses) in the same manner as if the award had been made by order of the county court (or, in Scotland, by decree of the sheriff court or, in Northern Ireland, by order of a county court).]

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[^{F21}(4E) Rules made under this paragraph in connection with any proceedings before a Medical Practitioners Tribunal or Interim Orders Tribunal may contain such provisions as appear to the General Council expedient for securing that, where the chair of the Tribunal is a legally qualified person and the chair advises the Tribunal on any question of law as to evidence, procedure or any other matter specified in the rules, the chair shall either—

- (a) so advise in the presence of every party, or person representing a party, to the proceedings who appears at the proceedings, or
- (b) inform every such party or person of the advice that the chair has tendered, if the advice is tendered after the Tribunal have begun their deliberations, whether by including the advice in the Tribunal’s decision or by some other means,

and the rules may also contain such incidental and supplementary provisions as appear to the General Council expedient.

(4F) In sub-paragraph (4E), “legally qualified person” means a person who satisfies the criteria set under paragraph 7(1C) in relation to legal qualifications and legal experience.]

(5) Rules made under this paragraph shall specify the relevant date for the purposes of sections 35A and 35B of this Act.

(6) Before making rules under this paragraph the General Council shall consult such bodies of persons representing medical practitioners, or medical practitioners of any description, as appear to the General Council requisite to be consulted.

(7) Rules under this paragraph shall not come into force until approved by order of the Privy Council.

(8) The Privy Council may approve such rules—

- (a) as submitted to them; or
- (b) subject to such modifications as appear to them to be requisite.

(9) Where the Privy Council propose to approve rules under this paragraph subject to modifications, they shall—

- (a) notify the General Council of the modifications they propose to make; and
- (b) consider any observations which the General Council may make on the modifications.

^{F22}(10)

Textual Amendments

- F4** Words in Sch. 4 para. 1(1) omitted (31.12.2015) by virtue of [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **8(1)(a)**; S.I. 2015/1952, art. 2(e)
- F5** Words in Sch. 4 para. 1(1)(a) substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **8(1)(b)**; S.I. 2015/1952, art. 2(e)
- F6** Sch. 4 para. 1(1)(aa) inserted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **8(1)(c)**; S.I. 2015/1952, art. 2(e)

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- F7** Words in Sch. 4 para. 1(1)(b) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **8(1)(d)**; S.I. 2015/1952, art. 2(e)
- F8** Sch. 4 para. 1(1A) inserted (3.8.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **7**; S.I. 2015/1579, art. 2(d) (with art. 3)
- F9** Sch. 4 para. 1(1B) inserted (3.8.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **21(8)** (with art. 1(4)); S.I. 2015/1579, art. 2(l)
- F10** Sch. 4 para. 1(2ZA)(2ZB) inserted (3.8.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **8(2)**; S.I. 2015/1579, art. 2(e)
- F11** Sch. 4 para. 1(2A)-(2E) substituted for Sch. 4 para. 1(2A) (3.8.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **9(1)**; S.I. 2015/1579, art. 2(f)
- F12** Sch. 4 para. 1(2F)(2G) inserted (3.8.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **21(9)** (with art. 1(4)); S.I. 2015/1579, art. 2(l)
- F13** Words in Sch. 4 para. 1(3) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **8(3)(a)**; S.I. 2015/1952, art. 2(e)
- F14** Words in Sch. 4 para. 1(3) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **8(3)(b)**; S.I. 2015/1952, art. 2(e)
- F15** Words in Sch. 4 para. 1(4) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **8(4)(a)**; S.I. 2015/1952, art. 2(e)
- F16** Words in Sch. 4 para. 1(4) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **8(4)(b)**; S.I. 2015/1952, art. 2(e)
- F17** Words in Sch. 4 para. 1(4) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **8(4)(c)**; S.I. 2015/1952, art. 2(e)
- F18** Words in Sch. 4 para. 1(4)(d) omitted (19.7.2006 for specified purposes, 19.10.2007 in so far as not already in force as notified in the London Gazette dated 20.7.2007) by virtue of The Medical Act 1983 (Amendment) and Miscellaneous Amendments Order 2006 (S.I. 2006/1914), art. 1(2)(b)(c)(3), **57(1)(b)**
- F19** Sch. 4 para. 1(4)(e) and preceding word omitted (19.7.2006 for specified purposes, 19.10.2007 in so far as not already in force as notified in the London Gazette dated 20.7.2007) by virtue of The Medical Act 1983 (Amendment) and Miscellaneous Amendments Order 2006 (S.I. 2006/1914), art. 1(2)(b)(c)(3), **57(1)(c)**
- F20** Sch. 4 para. 1(4A)-(4D) inserted (3.8.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **8(5)**; S.I. 2015/1579, art. 2(e)
- F21** Sch. 4 para. 1(4E)(4F) inserted (3.8.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **8(6)**; S.I. 2015/1579, art. 2(e)
- F22** Sch. 4 para. 1(10) omitted (19.7.2006 for specified purposes, 19.10.2007 in so far as not already in force as notified in the London Gazette dated 20.7.2007) by virtue of The Medical Act 1983 (Amendment) and Miscellaneous Amendments Order 2006 (S.I. 2006/1914), art. 1(2)(b)(c)(3), **57(1)(d)**

- 2 (1) For the purpose of proceedings in England or Wales or in Northern Ireland before—
 (a) the Investigation Committee;

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(b) [^{F23}an Interim Orders Tribunal]; or

(c) [^{F24}a Medical Practitioners Tribunal],

the Committee [^{F25}or Tribunal] may administer oaths, and any party to the proceedings may issue a writ of subpoena ad testificandum or duces tecum, but no person shall be compelled under any such writ to produce any document which he could not be compelled to produce on the trial of an action.

(2) Section 36 of the [^{F26}Senior Courts Act 1981] or section 67 of the Judicature (Northern Ireland) Act 1978 (which provide a special procedure for the issue of such writs so as to be in force throughout the United Kingdom) shall apply in relation to proceedings before the Investigation Committee, [^{F23}an Interim Orders Tribunal] or [^{F24}a Medical Practitioners Tribunal] in England and Wales or, as the case may be, in Northern Ireland as those provisions apply in relation to causes or matters in the High Court or actions or suits pending in the High Court of Justice in Northern Ireland.

(3) For the purpose of proceedings before the Investigation Committee, [^{F23}an Interim Orders Tribunal] or [^{F24}a Medical Practitioners Tribunal] in Scotland, the Committee [^{F25}or Tribunal] may administer oaths and the Court of Session shall on the application of any party to the proceedings have the like power as in any action in that court—

(a) to grant warrant for the citation of witnesses and havers to give evidence or to produce documents before the Committee [^{F25}or Tribunal] and for the issue of letters of second diligence against any witness or haver failing to appear after due citation;

(b) to grant warrant for the recovery of documents; and

(c) to grant commissions to persons to take the evidence of witnesses or to examine havers and receive their exhibits and productions.

Textual Amendments

F23 Words in Sch. 4 para. 2 substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **8(7)(a)**; S.I. 2015/1952, art. 2(e)

F24 Words in Sch. 4 para. 2 substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **8(7)(b)**; S.I. 2015/1952, art. 2(e)

F25 Words in Sch. 4 para. 2 substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **8(7)(c)**; S.I. 2015/1952, art. 2(e)

F26 Words in Act substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), s. 148(1), **Sch. 11 para. 1(2)**; S.I. 2009/1604, art. 2(d)

3

Where—

(a) several sittings of the Investigation Committee, [^{F27}a Medical Practitioners Tribunal or an Interim Orders Tribunal]^{F28} ... are required to enable [^{F29}the Committee or a Tribunal]^{F30} ... to dispose of a case; or

(b) on an appeal to the relevant court under section 40 of this Act, the case is remitted to the Registrar for him to refer the case to [^{F31}the MPTS for them to arrange for]^{F32}[^{F32}a Medical Practitioners Tribunal]^{F33} ... ^{F34} ... ^{F33} ... to dispose of the case in accordance with directions given by the court,

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the validity of the proceedings on the case before the [F35Committee or Tribunal]^{F36} ..., as the case may be, shall not be called into question by reason only that members of the [F35Committee or Tribunal]^{F36}... who were present at a former meeting were not present at a later meeting of the [F35Committee or Tribunal]^{F36}... or that members present at a later meeting were not present at a former meeting of the [F35Committee or Tribunal]^{F36} ..., as the case may be.

Textual Amendments

- F27** Words in Sch. 4 para. 3(a) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **8(8)(a)**; S.I. 2015/1952, art. 2(e)
- F28** Words in Sch. 4 para. 3(a) omitted (31.12.2015) by virtue of The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **8(8)(b)**; S.I. 2015/1952, art. 2(e)
- F29** Words in Sch. 4 para. 3(a) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **8(8)(c)**; S.I. 2015/1952, art. 2(e)
- F30** Words in Sch. 4 para. 3 omitted (31.12.2015) by virtue of The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **8(8)(i)**; S.I. 2015/1952, art. 2(e)
- F31** Words in Sch. 4 para. 3(b) inserted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **8(8)(d)**; S.I. 2015/1952, art. 2(e)
- F32** Words in Sch. 4 para. 3(b) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **8(8)(e)**; S.I. 2015/1952, art. 2(e)
- F33** Words in Sch. 4 para. 3(b) omitted (31.12.2015) by virtue of The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **8(8)(f)**; S.I. 2015/1952, art. 2(e)
- F34** Words in Sch. 4 para. 3(b) omitted (31.12.2015) by virtue of The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **8(8)(g)**; S.I. 2015/1952, art. 2(e)
- F35** Words in Sch. 4 para. 3 substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **8(8)(h)**; S.I. 2015/1952, art. 2(e)
- F36** Words in Sch. 4 para. 3 omitted (31.12.2015) by virtue of The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **8(8)(i)**; S.I. 2015/1952, art. 2(e)

Reference and transfer of cases to the Investigation Committee

F37 3A

Textual Amendments

- F37** Sch. 4 para. 3A omitted (31.12.2015) by virtue of The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **8(9)**; S.I. 2015/1952, art. 2(e)

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^{F1} Reference and transfer of cases to the Health Committee

^{F14}

^{F1} Preliminary proceedings

^{F15}

[^{F38} Professional performance assessments and health assessments]

Textual Amendments

F38 Words in Sch. 4 para. 5A(1)(a) and cross-heading substituted (3.8.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **10(1)(a)**; [S.I. 2015/1579](#), art. 2(g)

- 5A (1) The General Council may make rules—
- (a) authorising the giving of directions by any of—
 - (i) the Investigation Committee,
 - (ii) [^{F39}a Medical Practitioners Tribunal],
 - (iii) such other persons as may be specified in the rules,requiring [^{F40}an assessment of a kind referred to in sub-paragraph (1A)] to be carried out;
 - (b) specifying circumstances in which such an assessment may be carried out otherwise than in accordance with a direction.
- [^{F41}(1A) The assessments referred to in sub-paragraph (1) are—
- (a) in the case of a registered person, an assessment of the standard of a person’s professional performance;
 - (b) in the case of a person applying under section 41, or by virtue of section 31(8) or 31A(1)(c), for his name to be restored to the register, an assessment of the standard of professional performance of which the person would be capable if the person’s name were to be restored to the register;
 - (c) in either case, an assessment of the person’s physical or mental health.]
- [^{F42}(2) An assessment by virtue of this paragraph is to be carried out in accordance with such directions as the Registrar may give as to—
- (a) whether the assessment is to be carried out by an Assessment Team or by an individual assessor;
 - (b) the form or content of the assessment.
- (2ZA) Where the assessment is to be carried out by an Assessment Team, the Team—
- (a) must include at least one fully registered person selected by the Registrar; and
 - (b) is otherwise to be constituted in accordance with directions given by the Registrar.
- (2ZB) Where the assessment is to be carried out by an individual assessor, the assessor must be a fully registered person selected by the Registrar.

Status: Point in time view as at 31/12/2015.

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- (2ZC) The General Council may make rules as to—
- (a) the appointment of fully registered persons and of other persons to a list of persons eligible to be members of an Assessment Team and the appointment of fully registered persons to a list of persons eligible to be individual assessors;
 - (b) the procedure to be followed in carrying out an assessment by virtue of this paragraph;
 - (c) the procedure to be followed following the making of a report on an assessment carried out by virtue of this paragraph.
- (2ZD) Where there are rules made under sub-paragraph (2ZC)(a), a person selected under sub-paragraph (2ZA) or (2ZB) must be a person who is included in the applicable list of eligible persons provided for in the rules.
- (2ZE) The General Council may make rules authorising the Assessment Team which, or individual assessor who, is to carry out an assessment by virtue of this paragraph to determine the procedure to be followed in carrying out the assessment in so far as it is not provided for in rules under sub-paragraph (2ZC)(b).]
- (2A) An assessment of the standard of a registered person’s professional performance may include an assessment of his professional performance at any time prior to the assessment and may include an assessment of the standard of his professional performance at the time of the assessment.
- [^{F43}(2B) An assessment of a person’s physical or mental health may include an assessment of the person’s physical or mental health at any time prior to the assessment and may include an assessment of the person’s physical or mental health at the time of the assessment.]
- [^{F44}(3) If the Registrar is of the opinion that a registered person who is required to submit to an assessment by virtue of this paragraph has failed to submit to that assessment or to comply with requirements imposed in respect of the assessment, the Registrar—
- (a) may refer that matter to the MPTS for them to arrange for it to be considered by a Medical Practitioners Tribunal, and
 - (b) if he does so, must without delay serve on the person concerned a notification of the making of such a referral.
- (3A) If the Investigation Committee are of the opinion that a registered person who is required to submit to an assessment by virtue of this paragraph has failed to submit to that assessment or to comply with requirements imposed in respect of that assessment—
- (a) the Investigation Committee may direct the Registrar to refer that matter to the MPTS for them to arrange for it to be considered by a Medical Practitioners Tribunal; and
 - (b) the Registrar, having been given a direction under paragraph (a), must make the referral to the MPTS and must without delay serve on the person concerned a notification of the making of the referral.
- (3B) Where a matter is referred to the MPTS under sub-paragraph (3) or (3A), the MPTS must arrange for the matter to be considered by a Medical Practitioners Tribunal.
- (3C) Where a Medical Practitioners Tribunal, having given a direction by virtue of this paragraph to require a registered person to submit to an assessment, are of the opinion that the person concerned has failed to submit to that assessment or to comply with

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requirements imposed in respect of that assessment, the Tribunal must consider that matter.

(3D) The Medical Practitioners Tribunal, on their consideration of a matter under sub-paragraph (3B) or (3C), may, if they think fit—

- (a) direct that the person's registration in the register is to be suspended (that is to say, is not to have effect) during such period not exceeding twelve months as may be specified in the direction; or
- (b) direct that the person's registration is to be conditional on the person's compliance, during such period not exceeding three years as may be specified in the direction, with such requirements so specified as the Tribunal think fit to impose for the protection of members of the public or in the person's interests.

(3E) Where, under sub-paragraph (3D), the Tribunal give a direction for suspension or a direction for conditional registration, the MPTS must without delay serve on the person concerned notification of the direction and of the person's right to appeal against it under sub-paragraph (5).

(3F) Where, under sub-paragraph (3D), the Tribunal give a direction for suspension or a direction for conditional registration, or where the Tribunal decide not to give a direction under that sub-paragraph, the MPTS must without delay serve on the Registrar and the Professional Standards Authority for Health and Social Care notification of the direction or decision.

(3G) While a person's registration in the register is suspended by virtue of a direction under sub-paragraph (3D)—

- (a) the person is to be treated as not being registered in the register notwithstanding that the person's name still appears in it, but
- (b) sections 31A, 35C, 35CC, 35D, 35E and 39 are to continue to apply to the person.]

[^{F45}(3H) In deciding whether to give a direction under sub-paragraph (3D), a Medical Practitioners Tribunal must have regard to the over-arching objective.]

(5) An appeal shall lie to the relevant court (within the meaning of section 40(5) of this Act) from any direction of [^{F46}a Medical Practitioners Tribunal] given [^{F47}under sub-paragraph (3D)] above, and on an appeal under this sub-paragraph the relevant court may—

- (a) quash the direction;
- (b) substitute for the direction any other direction which [^{F48}the Tribunal] could have made; or
- (c) remit the case to [^{F49}the MPTS for them to arrange for][^{F46}a Medical Practitioners Tribunal] to [^{F50}dispose of it] in accordance with the court's directions,

and the decision of the court on any appeal under this sub-paragraph shall be final.

[^{F51}(5A) Subject to paragraph 9, an appeal under sub-paragraph (5) must be brought before the end of 28 days beginning with the date on which notification of the direction was served under sub-paragraph (3E).]

(6) An Assessment Team [^{F52}or an individual assessor], for the purposes of carrying out an assessment of the standard of a person's professional performance—

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- (a) may require the production of, inspect and take copies of any records (in whatever form they are held) arising out of or relating to the person's professional practice; and
- (b) where such records are kept otherwise than in legible form, may require a copy of them to be given to the Team [^{F53}or the assessor] in legible form.
- (7) A person who, without reasonable excuse, obstructs an Assessment Team [^{F54}or an individual assessor] in the execution of ^{F55}... powers under sub-paragraph (6) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (8) Nothing in this paragraph shall require or permit any disclosure of information which is prohibited by or under any other enactment; but where information is held in a form in which the prohibition operates by reason of the fact that the information is capable of identifying an individual, an Assessment Team [^{F54}or an individual assessor] may, in exercising ^{F55}... powers under sub-paragraph (6) above, require that the information be put into a form in which it is not capable of identifying an individual.
- (8A) In determining for the purposes of sub-paragraph (8) above whether a disclosure is not prohibited, by reason of being a disclosure of personal data which is exempt from the non-disclosure provisions of the Data Protection Act 1998 by virtue of section 35(1) of that Act, it shall be assumed that the disclosure is required under this paragraph.
- (9) Sub-paragraphs (6) and (7) of paragraph 1 above shall apply in relation to rules made under this paragraph as they apply in relation to rules under that paragraph.
- ^{F56}(10) In this paragraph a reference to the standard of a ^{F57}... person's professional performance includes the standard of the person's knowledge of English and, in particular, whether the person has the necessary knowledge of English.
- (11) But an assessment [^{F58}of a person's professional performance] carried out by virtue of this paragraph must not be limited to an assessment of whether a person has the necessary knowledge of English.
- (12) Where an assessment is required to be undertaken by virtue of paragraph 5C below, that assessment [^{F59}shall not be undertaken as part of an assessment carried out by virtue of this paragraph] .]
- ^{F60}(13) The General Council may by rules provide that an assessment of a person's knowledge of English undertaken as part of an assessment of the person's professional performance by virtue of this paragraph is to be undertaken in accordance with such provision as is made in rules under paragraph 5C(2) subject to such modifications as the General Council consider necessary or expedient.]

Textual Amendments

- F39** Words in Sch. 4 para. 5A(1)(a)(ii) substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **10(1)(a)**; S.I. 2015/1952, art. 2(g)
- F40** Words in Sch. 4 para. 5A(1)(a) substituted (3.8.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **10(1)(b)**; S.I. 2015/1579, art. 2(g)

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- F41** Sch. 4 para. 5A(1A) inserted (3.8.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **10(2)**; S.I. 2015/1579, art. 2(g)
- F42** Sch. 4 para. 5A(2)-(2ZE) substituted for Sch. 4 para. 5A(2) (3.8.2015 for specified purposes, 31.12.2015 in so far as not already in force) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **10(3)**; S.I. 2015/1579, art. 2(g); S.I. 2015/1952, art. 2(g)
- F43** Sch. 4 para. 5A(2B) inserted (3.8.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **10(4)**; S.I. 2015/1579, art. 2(g)
- F44** Sch. 4 paras. 5A(3)-(3G) substituted for Sch. 4 para. 5A(3)(3A) (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **10(5)**; S.I. 2015/1952, art. 2(g)
- F45** Sch. 4 para. 5A(3H) inserted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **21(10)** (with art. 1(4)); S.I. 2015/1952, art. 2(m)
- F46** Words in Sch. 4 para. 5A(5) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **10(6)(a)**; S.I. 2015/1952, art. 2(g)
- F47** Words in Sch. 4 para. 5A(5) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **10(6)(b)**; S.I. 2015/1952, art. 2(g)
- F48** Words in Sch. 4 para. 5A(5) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **10(6)(c)**; S.I. 2015/1952, art. 2(g)
- F49** Words in Sch. 4 para. 5A(5)(c) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **10(7)(a)**; S.I. 2015/1952, art. 2(g)
- F50** Words in Sch. 4 para. 5A(5)(c) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **10(7)(b)**; S.I. 2015/1952, art. 2(g)
- F51** Sch. 4 para. 5A(5A) inserted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **10(8)**; S.I. 2015/1952, art. 2(g)
- F52** Words in Sch. 4 para. 5A(6) inserted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **10(9)(a)**; S.I. 2015/1952, art. 2(g)
- F53** Words in Sch. 4 para. 5A(6)(b) inserted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **10(9)(b)**; S.I. 2015/1952, art. 2(g)
- F54** Words in Sch. 4 para. 5A(7)(8) inserted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **10(10)(a)**; S.I. 2015/1952, art. 2(g); S.I. 2015/1952, art. 2(g)
- F55** Word in Sch. 4 para. 5A(7)(8) omitted (31.12.2015) by virtue of The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **10(10)(b)**; S.I. 2015/1952, art. 2(g); S.I. 2015/1952, art. 2(g)
- F56** Sch. 4 paras. 5A(10)-(12) inserted (29.4.2014) by The Medical Act 1983 (Amendment) (Knowledge of English) Order 2014 (S.I. 2014/1101), arts. 1(1), **9(2)** (with arts. 11, 12)

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- F57** Word in Sch. 4 para. 5A(10) omitted (3.8.2015) by virtue of [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **11(1)**; S.I. 2015/1579, art. 2(h)
- F58** Words in Sch. 4 para. 5A(11) inserted (3.8.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **11(2)**; S.I. 2015/1579, art. 2(h)
- F59** Words in Sch. 4 para. 5A(12) substituted (3.8.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **11(3)**; S.I. 2015/1579, art. 2(h)
- F60** Sch. 4 para. 5A(13) inserted (3.8.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **11(4)**; S.I. 2015/1579, art. 2(h)

- 5B (1) A justice of the peace (including, in Scotland, a sheriff) may issue a warrant under this paragraph if satisfied by the evidence on oath of at least two members of an Assessment Team [^{F61}or an individual assessor] that there are reasonable grounds for suspecting that the team [^{F62}or assessor] will require a warrant for the purposes of carrying out an assessment required by virtue of rules made under paragraph 5A above.
- (2) A warrant under this paragraph shall authorise one or more members of the Assessment Team (who must, if so required, produce documents identifying themselves)^{F63}, or (as the case may be) an individual assessor (who must, if so required, produce documents identifying himself),] together with any constables—
- (a) to enter any building specified in the warrant, but not a dwelling-house, using such force as is reasonably necessary for the purpose; and
 - (b) to search the premises for the purposes of the exercise of the powers under paragraph 5A(6) above.
- (3) A warrant under this paragraph shall continue in force until the end of the period of 21 days beginning with the day on which it is issued.
- (4) A person who intentionally obstructs the exercise of any rights conferred by a warrant issued under this paragraph shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Textual Amendments

- F61** Words in Sch. 4 para. 5B(1) inserted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **10(11)(a)**; S.I. 2015/1952, art. 2(g)
- F62** Words in Sch. 4 para. 5B(1) inserted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **10(11)(b)**; S.I. 2015/1952, art. 2(g)
- F63** Words in Sch. 4 para. 5B(2) inserted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **10(12)**; S.I. 2015/1952, art. 2(g)

Knowledge of English Assessments

- [^{F64}5C.(1) The General Council may make rules—
- (a) authorising the giving of directions by any of—

Status: Point in time view as at 31/12/2015.

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- (i) the Investigation Committee,
 - (ii) [^{F65}a Medical Practitioners Tribunal],
 - (iii) such other persons as may be specified in the rules,
- requiring a registered person [^{F66}or a person seeking restoration to the register] to undertake an assessment of that person's knowledge of English;
- (b) specifying circumstances in which such an assessment may be undertaken otherwise than in accordance with a direction.

[The reference in sub-paragraph (1) to a person seeking restoration to the register is
^{F67}(1A) a reference to a person applying under section 41, or by virtue of section 31(8) or 31A(1)(c), for the person's name to be restored to the register.]

- (2) An assessment required to be undertaken by virtue of this paragraph must be undertaken in accordance with rules made by the General Council under this paragraph; and the rules shall, in particular, provide—
 - (a) for the procedures to be followed ^{F68}... when directing a ^{F69}... person to undertake such an assessment;
 - (b) for the ^{F69}... person who is required to undertake such an assessment to provide information in respect of that assessment to such persons as may be prescribed under the rules;
 - (c) for the information provided by virtue of paragraph (b) to be disclosed to such persons as may be prescribed under the rules.
- (3) If the Registrar is of the opinion that a [^{F70}registered] person who is required to undertake an assessment of that person's knowledge of English has failed to undertake that assessment or has undertaken the assessment but has failed to provide the information requested in respect of that assessment the Registrar^{F71}...—
 - (a) [^{F72}may refer that matter to the MPTS for them to arrange for it to be considered by a Medical Practitioners Tribunal,] and
 - (b) if he does so, shall without delay serve on the person a notification of the making of such a referral.

[If the Investigation Committee are of the opinion that a registered person who is
^{F73}(3A) required to undertake an assessment of that person's knowledge of English has failed to undertake that assessment or has undertaken the assessment but has failed to provide the information requested in respect of that assessment—

- (a) the Investigation Committee may direct the Registrar to refer that matter to the MPTS for them to arrange for it to be considered by a Medical Practitioners Tribunal; and
 - (b) the Registrar, having been given a direction under paragraph (a), must make the referral to the MPTS and must without delay serve on the person concerned a notification of the making of the referral.
- (3B) Where a matter is referred to the MPTS under sub-paragraph (3) or (3A), the MPTS must arrange for the matter to be considered by a Medical Practitioners Tribunal.
 - (3C) If a Medical Practitioners Tribunal, having given a direction by virtue of this paragraph to require a person to undertake an assessment of that person's knowledge of English, are of the opinion that the person concerned has failed to undertake that assessment or has undertaken the assessment but has failed to provide the information required in respect of that assessment, the Tribunal must consider that matter.]

Status: Point in time view as at 31/12/2015.

Changes to legislation: Medical Act 1983, SCHEDULE 4 is up to date with all changes known to be in force on or before 02 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) [^{F74}The Medical Practitioners Tribunal, on their consideration of a matter under sub-paragraph (3B) or (3C) may], if they think fit—
- (a) direct that the person’s registration in the register shall be suspended (that is to say, shall not have effect) during such period not exceeding 12 months as may be specified in the direction; or
 - (b) direct that the person’s registration shall be conditional on the person’s compliance, during such period not exceeding 3 years as may be specified in the direction, with such requirements so specified as [^{F75}the Tribunal] think fit to impose for the protection of members of the public or in the person’s interests.

[In deciding whether to give a direction under sub-paragraph (4), a Medical
^{F76}(4A) Practitioners Tribunal must have regard to the over-arching objective.]

- (5) Where under sub-paragraph (4), [^{F77}the Medical Practitioners Tribunal] give a direction for suspension or a direction for conditional registration [^{F78}the MPTS] must without delay serve on the person concerned notification of the direction and of the person’s right to appeal against it under sub-paragraph (7).

[Where, under sub-paragraph (4), the Medical Practitioners Tribunal give a direction
^{F79}(5A) for suspension or a direction for conditional registration, or where the Tribunal decide not to give a direction under that sub-paragraph, the MPTS must without delay serve on the Registrar and the Professional Standards Authority for Health and Social Care notification of the direction or decision.]

- (6) While a person’s registration in the register is suspended by virtue of a direction under sub-paragraph (4)—
- (a) the person is to be treated as not being registered in the register notwithstanding that the person’s name still appears in it, but
 - (b) sections 31A, 35C, 35CC, 35D, 35E and 39 are to continue to apply to the person.
- (7) An appeal shall lie to the relevant court (within the meaning of section 40(5) of this Act) from any direction of [^{F80}a Medical Practitioners Tribunal] given under sub-paragraph (4) and on an appeal under this paragraph the relevant court may—
- (a) quash the direction,
 - (b) substitute for the direction any other direction which [^{F81}the Tribunal] could have made, or
 - (c) remit the case to [^{F82}the MPTS for them to arrange for][^{F80}a Medical Practitioners Tribunal] to [^{F83}dispose of it] in accordance with the court’s directions,

and the decision of the court on any appeal under this sub-paragraph shall be final.

- (8) Subject to paragraph 9, an appeal under sub-paragraph (7) must be brought before the end of the period of 28 days beginning with the date on which notification of the direction was served under sub-paragraph (5).
- (9) Sub-paragraphs (6) to (9) of paragraph 1 above shall apply in relation to rules made under this paragraph as they apply in relation to rules under that paragraph.]

Status: Point in time view as at 31/12/2015.

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Textual Amendments

- F64** Sch. 4 para. 5C inserted (29.4.2014) by The Medical Act 1983 (Amendment) (Knowledge of English) Order 2014 (S.I. 2014/1101), arts. 1(1), **9(3)** (with arts. 11, 12)
- F65** Words in Sch. 4 para. 5C(1)(a)(ii) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **11(5)(a)**; S.I. 2015/1952, art. 2(h)
- F66** Words in Sch. 4 para. 5C(1)(a) inserted (3.8.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **11(5)(b)**; S.I. 2015/1579, art. 2(h)
- F67** Sch. 4 para. 5C(1A) inserted (3.8.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **11(6)**; S.I. 2015/1579, art. 2(h)
- F68** Words in Sch. 4 para. 5C(2)(a) omitted (3.8.2015) by virtue of The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **11(7)(a)**; S.I. 2015/1579, art. 2(h)
- F69** Word in Sch. 4 para. 5C(2)(a)(b) omitted (3.8.2015) by virtue of The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **11(7)(b)**; S.I. 2015/1579, art. 2(h)
- F70** Word in Sch. 4 para. 5C(3) inserted (3.8.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **11(8)(a)**; S.I. 2015/1579, art. 2(h)
- F71** Word in Sch. 4 para. 5C(3) omitted (31.12.2015) by virtue of The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **11(8)(b)**; S.I. 2015/1952, art. 2(h)
- F72** Words in Sch. 4 para. 5C(3)(a) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **11(8)(c)**; S.I. 2015/1952, art. 2(h)
- F73** Sch. 4 paras. 5C(3A)-(3C) inserted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **11(9)**; S.I. 2015/1952, art. 2(h)
- F74** Words in Sch. 4 para. 5C(4) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **11(10)(a)**; S.I. 2015/1952, art. 2(h)
- F75** Words in Sch. 4 para. 5C(4)(b) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **11(10)(b)**; S.I. 2015/1952, art. 2(h)
- F76** Sch. 4 para. 5C(4A) inserted (3.8.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **21(11)** (with art. 1(4)); S.I. 2015/1579, art. 2(l)
- F77** Words in Sch. 4 para. 5C(5) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **11(11)(a)**; S.I. 2015/1952, art. 2(h)
- F78** Words in Sch. 4 para. 5C(5) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **11(11)(b)**; S.I. 2015/1952, art. 2(h)
- F79** Sch. 4 para. 5C(5A) inserted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **11(12)**; S.I. 2015/1952, art. 2(h)
- F80** Words in Sch. 4 para. 5C(7) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **11(13)(a)**; S.I. 2015/1952, art. 2(h)

Status: Point in time view as at 31/12/2015.

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- F81** Words in Sch. 4 para. 5C(7)(b) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **11(13)(b)**; S.I. 2015/1952, art. 2(h)
- F82** Words in Sch. 4 para. 5C(7)(c) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **11(13)(c)**; S.I. 2015/1952, art. 2(h)
- F83** Words in Sch. 4 para. 5C(7) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **11(13)(d)**; S.I. 2015/1952, art. 2(h)

Proceedings for erasure of entries fraudulently or incorrectly made

F84₆

Textual Amendments

F84 Sch. 4 para. 6 omitted (19.7.2006 for specified purposes, 19.10.2007 in so far as not already in force as notified in the London Gazette dated 20.7.2007) by virtue of [The Medical Act 1983 \(Amendment\) and Miscellaneous Amendments Order 2006 \(S.I. 2006/1914\)](#), art. 1(2)(b)(c)(3), **57(2)**

Legal assessors

- 7 (1) For the purposes of advising—
- (a) the Investigation Committee where it is considering giving a warning to a person;
 - F85**(b)
 - F86**(c)
- on questions of law arising in proceedings before [**F87**the Committee], there shall in all such proceedings be an assessor to [**F88**the Committee] who shall be appointed by the General Council^{**F89**}....
- [**F90**(1A) The General Council must set and publish the criteria which a person must satisfy (whether in relation to qualifications, experience, competencies or other matters) in order to be eligible for appointment under sub-paragraph (1).]
- [**F91**(1B) The MPTS must appoint a person as an assessor to a Medical Practitioners Tribunal or an Interim Orders Tribunal for the purpose of advising the Tribunal on questions of law arising in proceedings before them—
- (a) if the chair of the Tribunal is not a legally qualified person, or
 - (b) in any other case where they consider it appropriate to do so.
- (1C) The MPTS must set and publish the criteria which a person must satisfy (whether in relation to qualifications, experience, competencies or other matters) in order to be eligible for appointment under sub-paragraph (1B).
- (1D) In sub-paragraph (1B), “legally qualified person” means a person who satisfies such criteria as are set under sub-paragraph (1C) in relation to legal qualifications and legal experience.]
- (2) An assessor may be appointed under this paragraph either generally or for any particular proceedings or class of proceedings.

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- [^{F92}(2A) The General Council may make rules containing provision for a body (including a committee of the General Council which is not one of the statutory committees) to assist the MPTS in connection with the exercise of any function relating to the appointment of a person as an assessor.]
- (3) [^{F93}The General Council] may make rules as to the functions of assessors appointed under this paragraph, including without prejudice to the generality of the powers to make such rules, the function of advising on the drafting of decisions.
- (4) Rules made under this paragraph in connection with proceedings before the Investigation Committee, [^{F94}a Medical Practitioners Tribunal or an Interim Orders Tribunal] may in particular contain such provisions as appear to [^{F95}the General Council] expedient for—
- (a) securing that where an assessor advises the Committee or [^{F96}a Tribunal] on any question of law as to evidence, procedure or any other matter specified in the rules, he shall either—
- (i) so advise in the presence of every party, or person representing a party, to the proceedings who appears at the proceedings, or
- (ii) inform every such party or person of the advice that he has tendered, if the advice is tendered after the Committee or [^{F96}the Tribunal] have begun their deliberations;
- (b) securing that every such party or person shall be informed if in any case the Committee or [^{F96}the Tribunal] do not accept the advice of the assessor on any such question,
- and may also contain such incidental and supplementary provisions as appear to [^{F95}the General Council] expedient.
- (5) The General Council may pay to persons appointed to act as assessors such remuneration as the Council may determine.
- [^{F97}(6) Rules under this paragraph shall not come into force until approved by order of the Privy Council.]

Textual Amendments

- F85** Sch. 4 para. 7(1)(b) omitted (31.12.2015) by virtue of [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **13(1)(a)**; S.I. 2015/1952, art. 2(j)
- F86** Sch. 4 para. 7(1)(c) and preceding word omitted (31.12.2015) by virtue of [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **13(1)(b)**; S.I. 2015/1952, art. 2(j)
- F87** Words in Sch. 4 para. 7(1) substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **13(1)(c)**; S.I. 2015/1952, art. 2(j)
- F88** Word in Sch. 4 para. 7(1) substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **13(1)(d)**; S.I. 2015/1952, art. 2(j)
- F89** Words in Sch. 4 para. 7(1) omitted (31.12.2015) by virtue of [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **13(1)(e)**; S.I. 2015/1952, art. 2(j)

Status: Point in time view as at 31/12/2015.

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- F90** Sch. 4 para. 7(1A) inserted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **13(2)**; S.I. 2015/1952, art. 2(j)
- F91** Sch. 4 para. 7(1B)-(1D) inserted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **13(3)**; S.I. 2015/1952, art. 2(j)
- F92** Sch. 4 para. 7(2A) inserted (3.8.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **13(4)**; S.I. 2015/1579, art. 2(j)
- F93** Words in Sch. 4 para. 7(3) substituted (20.7.2006) by The Medical Act 1983 (Amendment) and Miscellaneous Amendments Order 2006 (S.I. 2006/1914), arts. 1(2)(a), **57(3)(a)** (with art. 91)
- F94** Words in Sch. 4 para. 7(4) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **13(5)(a)**; S.I. 2015/1952, art. 2(j)
- F95** Words in Sch. 4 para. 7(4) substituted (20.7.2006) by The Medical Act 1983 (Amendment) and Miscellaneous Amendments Order 2006 (S.I. 2006/1914), arts. 1(2)(a), **57(3)(b)** (with art. 91)
- F96** Words in Sch. 4 para. 7(4) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **13(5)(b)**; S.I. 2015/1952, art. 2(j)
- F97** Sch. 4 para. 7(6) substituted (20.7.2006) by The Medical Act 1983 (Amendment) and Miscellaneous Amendments Order 2006 (S.I. 2006/1914), arts. 1(2)(a), **57(3)(c)** (with art. 91)

^{F98}Case managers

Textual Amendments

- F98** Sch. 4 para. 7A inserted (3.8.2015 for specified purposes, 31.12.2015 in so far as not already in force) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **14**; S.I. 2015/1579, art. 2(k); S.I. 2015/1952, art. 2(k)

- 7A. (1) For the purpose of conducting the management of cases before a Medical Practitioners Tribunal, the MPTS may appoint persons as case managers.
- (2) A person may be appointed as a case manager either generally or for any particular proceedings or class of proceedings; accordingly, when appointing a person as a case manager for particular proceedings, the MPTS may appoint—
- (a) a person whom they have already appointed generally or for proceedings of the class in question, or
 - (b) a person whom they have not already appointed but wish to appoint for the particular proceedings.
- (3) The MPTS must set and publish the criteria which a person must satisfy (whether in relation to qualifications, experience, competencies or other matters) in order to be eligible for appointment under this paragraph.
- (4) The General Council may make rules containing provision for a body (including a committee of the General Council which is not one of the statutory committees) to assist the MPTS in connection with the exercise of any function relating to the appointment of a person as a case manager.

Status: Point in time view as at 31/12/2015.

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- (5) The chair of a Medical Practitioners Tribunal may be appointed as a case manager for the proceedings before that Tribunal if the chair satisfies such criteria as are set under sub-paragraph (3) in relation to legal qualifications and legal experience.
- (6) The General Council may make rules as to the functions of case managers appointed under this paragraph including, without prejudice to the generality of the powers to make such rules, provision—
 - (a) enabling the case manager to give directions (including directions as to the adjournment of proceedings);
 - (b) requiring directions given by the case manager to be treated as binding except in cases or circumstances specified in the rules;
 - (c) (where the rules include provision by virtue of paragraph 1(4D)(a)) enabling the case manager to assess costs (or, in Scotland, to tax expenses or, in Northern Ireland, to tax costs) and requiring the case manager to have regard to a party's ability to pay.
- (7) Nothing in this paragraph prevents a Medical Practitioners Tribunal from themselves collectively conducting the management of the case before them.
- (8) The General Council may pay to persons appointed under this paragraph such remuneration as the Council may determine.
- (9) Rules made under this paragraph may also contain such incidental and supplementary provisions as appear to the General Council expedient.
- (10) Rules under this paragraph do not come into force until approved by order of the Privy Council.]

Service of notifications of decisions

- 8
- (1) This paragraph applies to any notice required to be served on a person under section 35C(5), (7) or (8), 35E(1), 39(2), [F99 41(10) or 41A(5)] of this Act [F100 or paragraph [F101 5A(3), (3A) or (3E) or] 5C(3)[F102, (3A)] or (5) above][F103 or by virtue of section 35CC(6)].
 - (2) Any such notice may be so served—
 - (a) by delivering it to him;
 - (b) by leaving it at his proper address;
 - (c) by sending it by a registered post service; F104 ...
 - (d) by sending it by a postal service which provides for the delivery of the notice by post to be recorded[F105; or
 - (e) by sending it to an email address which the person provides for the purpose of fitness to practise proceedings]
 - (3) For the purposes of this paragraph and of section 7 of the Interpretation Act 1978 in its application to this paragraph, a person's proper address shall be—
 - (a) his address in the register; or
 - (b) if the conditions in sub-paragraph (4) below are satisfied, his last known address.
 - (4) The conditions are that—
 - (a) the person's last known address differs from his address in the register; and

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- (b) it appears to the Registrar that a letter sent to the person at his last known address is more likely to reach him.
- (5) For the purposes of this paragraph—
- (a) the serving of a notice effected by sending it by post shall be deemed to have been effected at the time when the letter containing it would be delivered in the ordinary course of post; and
- (b) so much of section 7 of the Interpretation Act 1978 as relates to the time when service is deemed to have been effected shall not apply to a notice sent by post.
- [^{F106}(6) For the purposes of this paragraph, service of a notice sent by email is effected only if there is an electronic receipt showing that the email has been opened (or if the recipient acknowledges receipt in some other way).]

Textual Amendments

- F99** Words in Sch. 4 para. 8(1) substituted (3.12.2007) by *The European Qualifications (Health and Social Care Professions) Regulations 2007 (S.I. 2007/3101)*, regs. 1(2), **35**
- F100** Words in Sch. 4 para. 8(1) inserted (29.4.2014) by *The Medical Act 1983 (Amendment) (Knowledge of English) Order 2014 (S.I. 2014/1101)*, arts. 1(1), **9(4)** (with arts. 11, 12)
- F101** Words in Sch. 4 para. 8(1) inserted (31.12.2015) by *The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794)*, arts. 1(3), **12(12)(a)**; S.I. 2015/1952, art. 2(i)
- F102** Word in Sch. 4 para. 8(1) inserted (31.12.2015) by *The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794)*, arts. 1(3), **12(12)(b)**; S.I. 2015/1952, art. 2(i)
- F103** Words in Sch. 4 para. 8(1) inserted (31.12.2015) by *The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794)*, arts. 1(3), **22(2)**; S.I. 2015/1952, art. 2(n)
- F104** Word in Sch. 4 para. 8(2) omitted (31.12.2015) by virtue of *The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794)*, arts. 1(3), **24(1)(a)**; S.I. 2015/1952, art. 2(o)
- F105** Sch. 4 para. 8(2)(e) and preceding word inserted (31.12.2015) by *The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794)*, arts. 1(3), **24(1)(b)**; S.I. 2015/1952, art. 2(o)
- F106** Sch. 4 para. 8(6) inserted (31.12.2015) by *The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794)*, arts. 1(3), **24(2)**; S.I. 2015/1952, art. 2(o)

Modifications etc. (not altering text)

- C1** Sch. 4 para. 8 applied (1.11.2004) by *The Medical Act 1983 (Amendment) Order 2002 (Transitional Provision) Order of Council 2004 (S.I. 2004/2610)*, arts. 1(1), **2**

Extension of time for appealing

- 9 Where—
- (a) any notice required by section 35E(1) or 39(2) of this Act [^{F107}or paragraph [^{F108}5A(3E) or] 5C(5) above] to be served on a person by the Registrar [^{F109}or the MPTS] is served on him by sending it by post; and

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- (b) the Registrar is ^{F110}or (as the case may be) the MPTS are] satisfied, on an application of that person, that the person did not receive the notice within 14 days beginning with the day of the giving of the decision to which the notification relates,

the Registrar ^{F111}or (as the case may be) the MPTS] may, if ^{F112}he or they think] fit, by authorisation in writing extend the time within which an appeal under section 40 of this Act ^{F113}or paragraph ^{F114}5A(5) or] 5C(7) above ^{F115}...] may be brought against the decision.

Textual Amendments

- F107** Words in Sch. 4 para. 9(a) inserted (29.4.2014) by The Medical Act 1983 (Amendment) (Knowledge of English) Order 2014 (S.I. 2014/1101), arts. 1(1), **9(5)(a)** (with arts. 11, 12)
- F108** Word in Sch. 4 para. 9(a) inserted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **12(13)(a)**; S.I. 2015/1952, art. 2(i)
- F109** Words in Sch. 4 para. 9(a) inserted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **5(19)(a)**; S.I. 2015/1952, art. 2(d)
- F110** Words in Sch. 4 para. 9(b) inserted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **5(19)(b)**; S.I. 2015/1952, art. 2(d)
- F111** Words in Sch. 4 para. 9 inserted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **5(19)(c)**; S.I. 2015/1952, art. 2(d)
- F112** Words in Sch. 4 para. 9 substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **5(19)(d)**; S.I. 2015/1952, art. 2(d)
- F113** Words in Sch. 4 para. 9 inserted (29.4.2014) by The Medical Act 1983 (Amendment) (Knowledge of English) Order 2014 (S.I. 2014/1101), arts. 1(1), **9(5)(b)** (with arts. 11, 12)
- F114** Word in Sch. 4 para. 9 inserted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **12(13)(b)**; S.I. 2015/1952, art. 2(i)
- F115** Words in Sch. 4 para. 9 omitted (31.12.2015) by virtue of The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **12(13)(c)**; S.I. 2015/1952, art. 2(i)

Taking effect of directions for erasure, suspension or conditional registration and of variations of conditions of registration

- 10 (1) A direction for erasure, for suspension or for conditional registration given by ^{F116}a Medical Practitioners Tribunal] under section 35D of ^{F117}this Act or a] variation by ^{F116}a Medical Practitioners Tribunal] under section 35D(12) ^{F118}... shall take effect—
- (a) where no appeal under section 40 is brought against the direction or variation within the time specified in that section, on the expiration of that time;
- (b) where such an appeal is so brought but is withdrawn or dismissed for want of prosecution, on the withdrawal or dismissal of the appeal;
- (c) where such an appeal is so brought and is not withdrawn or dismissed for want of prosecution, if and when the appeal is dismissed.

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- (2) Where the time for appealing against a direction or variation is extended by an authorisation under paragraph 9 above—
- (a) sub-paragraph (1) shall apply to the direction as if the reference in paragraph (a) to the time specified in section 40 of this Act were a reference to that time as so extended; and
 - (b) if the authorisation is given after the expiration of the time specified in section 40 of this Act, the direction or variation shall be deemed not to have taken effect on the expiration of that time,
- and any reference in this Act to the time when such a direction takes effect in accordance with this paragraph shall be construed accordingly.
- (3) Any reference in this paragraph to a direction for suspension or for conditional registration includes a reference to a direction extending a period of suspension or conditional registration.

Textual Amendments

F116 Words in Sch. 4 para. 10(1) substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **8(10)**; S.I. 2015/1952, art. 2(e)

F117 Words in Sch. 4 para. 10(1) substituted (19.7.2006 for specified purposes, 19.10.2007 in so far as not already in force as notified in the London Gazette dated 20.7.2007) by [The Medical Act 1983 \(Amendment\) and Miscellaneous Amendments Order 2006 \(S.I. 2006/1914\)](#), art. 1(2)(b)(c)(3), **64(a)**

F118 Words in Sch. 4 para. 10(1) omitted (19.7.2006 for specified purposes, 19.10.2007 in so far as not already in force as notified in the London Gazette dated 20.7.2007) by virtue of [The Medical Act 1983 \(Amendment\) and Miscellaneous Amendments Order 2006 \(S.I. 2006/1914\)](#), art. 1(2)(b)(c)(3), **64(b)**

[^{F119}10A.] A direction for suspension or for conditional registration given by a Medical Practitioners Tribunal under paragraph 5A(3D) is to take effect—

- (a) where no appeal under paragraph 5A(5) is brought against the direction within the time specified in paragraph 5A(5A), on the expiration of that time;
- (b) where such an appeal is so brought but is withdrawn or dismissed for want of prosecution, on the withdrawal or dismissal of the appeal;
- (c) where such an appeal is so brought and is not withdrawn or dismissed for want of prosecution, if and when the appeal is dismissed.

(2) Where the time for appealing against a direction is extended by an authorisation under paragraph 9—

- (a) sub-paragraph (1) is to apply to the direction as if the reference in paragraph (a) to the time specified in paragraph 5A(5A) were a reference to that time as so extended; and
- (b) if the authorisation is given after the expiration of the time specified in paragraph 5A(5A), the direction is deemed not to have taken effect on the expiration of that time,

and any reference in this Act to the time when such a direction takes effect in accordance with this paragraph is to be construed accordingly.]

Status: Point in time view as at 31/12/2015.

Changes to legislation: Medical Act 1983, SCHEDULE 4 is up to date with all changes known to be in force on or before 02 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F119 Sch. 4 para. 10A inserted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **12(14)**; S.I. 2015/1952, art. 2(i)

[^{F120}10B.] A direction for suspension or for conditional registration given by [^{F121}the Medical Practitioners Tribunal] under paragraph 5C(4) above shall take effect—

- (a) where no appeal under paragraph 5C(7) above is brought against the direction within the time specified in paragraph 5C(8) above, on the expiration of that time;
- (b) where such an appeal is so brought but is withdrawn or dismissed for want of prosecution, on the withdrawal or dismissal of the appeal;
- (c) where such an appeal is so brought and is not withdrawn or dismissed for want of prosecution, if and when the appeal is dismissed.

(2) Where the time for appealing against a direction is extended by an authorisation under paragraph 9 above—

- (a) sub-paragraph (1) above shall apply to the direction as if the reference in paragraph (a) to the time specified in paragraph 5C(8) above were a reference to that time as so extended; and
- (b) if the authorisation is given after the expiration of the time specified in paragraph 5C(8) above, the direction shall be deemed not to have taken effect on the expiration of that time,

and any reference in this Act to the time when such a direction takes effect in accordance with this paragraph shall be construed accordingly.]

Textual Amendments

F120 Sch. 4 para. 10B inserted (29.4.2014) by [The Medical Act 1983 \(Amendment\) \(Knowledge of English\) Order 2014 \(S.I. 2014/1101\)](#), arts. 1(1), **9(6)** (with arts. 11, 12)

F121 Words in Sch. 4 para. 10B(1) substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **8(11)**; S.I. 2015/1952, art. 2(e)

11 (1) If, while a person's registration is suspended under [^{F122}section 35D] of this Act [^{F123}or under paragraph [^{F124}5A(3D) or] 5C(4) above^{F125} ...], a direction is given under [^{F126}subsection (5)(a), (b) or (c)] or (8)(a) or (c) of [^{F127}section 35D], the suspension of his registration shall continue to have effect throughout any period which may intervene between the time when, but for this sub-paragraph, the suspension of his registration would end and the time when^{F128}—

- (a) the direction takes effect in accordance with paragraph 10, 10A or 10B above,
- (b) where on an appeal under this Act against the direction the MPTS arrange for the matter to be disposed of by a Medical Practitioners Tribunal, the Tribunal dispose of the matter and their decision on doing so takes effect, or
- (c) an appeal under this Act against the direction is determined (otherwise than by the dismissal of the appeal or by the disposal of the matter by a Medical Practitioners Tribunal).]

Status: Point in time view as at 31/12/2015.

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- (2) If, on the determination of an appeal under section 40 of this Act, a direction extending a current period of suspension for a further period takes effect after the time when, but for sub-paragraph (1) above, the current period of suspension would have ended, that further period shall be treated as having started to run from that time.
- (3) If, while a person's registration is subject to conditions imposed under [^{F129}section 35D] of this Act [^{F130}or under paragraph [^{F131}5A(3D) or] 5C(4) above^{F132}...], a direction is given under subsection (10) or (12) of [^{F133}section 35D] the conditions attached to his registration shall continue to attach to it throughout any period which may intervene between the time when, but for this sub-paragraph, his registration would cease to be conditional and the time when^{F134}—
- (a) the direction takes effect in accordance with paragraph 10, 10A or 10B above,
 - (b) where on an appeal under this Act against the direction the MPTS arrange for the matter to be disposed of by a Medical Practitioners Tribunal, the Tribunal dispose of the matter and their decision on doing so takes effect, or
 - (c) an appeal under this Act against the direction is determined (otherwise than by the dismissal of the appeal or by the disposal of the matter by a Medical Practitioners Tribunal).]
- (4) If, on the determination of an appeal under section 40 of this Act, a direction extending a current period of conditional registration for a further period takes effect after the time when, but for sub-paragraph (3) above, the current period of conditional registration would have ended, that further period shall be treated as having started to run from that time.
- [^{F135}(5) A reference in this paragraph to an appeal under this Act does not include a reference to an appeal under section 40A.]

Textual Amendments

- F122** Words in Sch. 4 para. 11(1) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **12(15)(a)**; S.I. 2015/1952, art. 2(i)
- F123** Words in Sch. 4 para. 11(1) inserted (29.4.2014) by The Medical Act 1983 (Amendment) (Knowledge of English) Order 2014 (S.I. 2014/1101), arts. 1(1), **9(7)(a)(i)** (with arts. 11, 12)
- F124** Words in Sch. 4 para. 11(1) inserted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **12(15)(b)**; S.I. 2015/1952, art. 2(i)
- F125** Words in Sch. 4 para. 11(1) omitted (31.12.2015) by virtue of The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **12(15)(c)**; S.I. 2015/1952, art. 2(i)
- F126** Words in Sch. 4 para. 11(1) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **12(15)(d)**; S.I. 2015/1952, art. 2(i)
- F127** Words in Sch. 4 para. 11(1) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **12(15)(e)**; S.I. 2015/1952, art. 2(i)
- F128** Words in Sch. 4 para. 11(1) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **25**; S.I. 2015/1952, art. 2(o)

Status: Point in time view as at 31/12/2015.

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- F129** Words in Sch. 4 para. 11(3) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **12(16)(a)**; S.I. 2015/1952, art. 2(i)
- F130** Words in Sch. 4 para. 11(3) inserted (29.4.2014) by The Medical Act 1983 (Amendment) (Knowledge of English) Order 2014 (S.I. 2014/1101), arts. 1(1), **9(7)(b)(i)** (with arts. 11, 12)
- F131** Words in Sch. 4 para. 11(3) inserted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **12(16)(b)**; S.I. 2015/1952, art. 2(i)
- F132** Words in Sch. 4 para. 11(3) omitted (31.12.2015) by virtue of The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **12(16)(c)**; S.I. 2015/1952, art. 2(i)
- F133** Words in Sch. 4 para. 11(3) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **12(16)(d)**; S.I. 2015/1952, art. 2(i)
- F134** Words in Sch. 4 para. 11(3) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **25**; S.I. 2015/1952, art. 2(o)
- F135** Sch. 4 para. 11(5) inserted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **17(2)**; S.I. 2015/1952, art. 2(l) (with Sch. para. 2)

Recording of directions for suspension or conditional registration

- 12 Where a direction under section 35D of this Act [^{F136}or under paragraph [^{F137}5A(3D) or] 5C(4) of this Schedule]^{F138}... for suspension or for conditional registration takes effect in relation to any person the Registrar shall record in the register the fact that that person’s registration is suspended or subject to conditions.

Textual Amendments

- F136** Words in Sch. 4 para. 12 inserted (29.4.2014) by The Medical Act 1983 (Amendment) (Knowledge of English) Order 2014 (S.I. 2014/1101), arts. 1(1), **9(8)** (with arts. 11, 12)
- F137** Words in Sch. 4 para. 12 inserted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **12(17)(a)**; S.I. 2015/1952, art. 2(i)
- F138** Words in Sch. 4 para. 12 omitted (31.12.2015) by virtue of The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **12(17)(b)**; S.I. 2015/1952, art. 2(i)

Meaning of “party”

- 13 In this Schedule “party”, in relation to proceedings before the Investigation Committee, [^{F139}a Medical Practitioners Tribunal or Interim Orders Tribunal] means any person to whose registration the proceedings relate, or ^{F140}...the General Council.]

Textual Amendments

- F139** Words in Sch. 4 para. 13 substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **8(12)**; S.I. 2015/1952, art. 2(e)

Status: Point in time view as at 31/12/2015.

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F140 Words in Sch. 4 para. 13 omitted (31.12.2015) by virtue of The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **26(2)**; S.I. 2015/1952, art. 2(o)

Status:

Point in time view as at 31/12/2015.

Changes to legislation:

Medical Act 1983, SCHEDULE 4 is up to date with all changes known to be in force on or before 02 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.