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STATUTORY INSTRUMENTS

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**2002 No. 3135**

**HEALTH CARE AND  
ASSOCIATED PROFESSIONS**

**DOCTORS**

**The Medical Act 1983 (Amendment) Order 2002**

*Made - - - - 17th December 2002  
Coming into force in accordance with article 1(2) and  
(3)*

At the Court at Buckingham Palace, the 17th day of December 2002

Present,

The Queen's Most Excellent Majesty in Council

Whereas the Secretary of State published a draft Order and invited representations as required by paragraph 9(1) of Schedule 3 to the Health Act 1999<sup>(1)</sup> and the period of three months mentioned in paragraph 9(2) of that Schedule expired before a draft of this Order in Council was laid before Parliament.

Whereas a draft of this Order in Council has been approved by resolution of each House of Parliament in accordance with section 62(9) of that Act.

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by sections 60 and 62(4) of the Health Act 1999 and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

**PART I**

**GENERAL**

**Citation, commencement, extent and interpretation**

1.—(1) This Order may be cited as the Medical Act 1983 (Amendment) Order 2002.

(2) This article and—

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(1) 1999 c. 8.

- (a) article 2 in so far as it relates to the provisions commenced by sub-paragraphs (b) to (h) and (k) below;
- (b) article 3;
- (c) article 4, except in so far as it relates to the new paragraphs 1(3), 2(4)(c), 2(5)(b), 3(2)(b) and 4A of Schedule 1 to the Act;
- (d) article 6(2) to (10), and article 6(1) in so far as it relates to those provisions;
- (e) article 7(2)(a)(i) and (ii) and (2)(b), and article 7(1) in so far it relates to those provisions;
- (f) article 9(2), (3), (4)(a) to (c) and (5)(c);
- (g) article 10, in so far as it relates to section 29G(1)(a), (2) and (3);
- (h) article 15(1), (6)(a) and (b), (6)(c) in so far as it provides for the definition of “exempt person”, “professional performance” and “revalidation”, and (7);
- (i) article 16(3) to (5);
- (j) paragraph 11 of Schedule 1, and article 16(1) in so far as it relates to that paragraph; and
- (k) paragraphs 2, 3, 4, 34 and 35 of Schedule 2, and article 16(2) and paragraph 1 of that Schedule in so far as they relate to those paragraphs,

come into force forthwith upon the making of this Order; and the other provisions of this Order shall come into force on such days as the Secretary of State may specify.

(3) Different days may be specified under paragraph (2) for different purposes and any day so specified shall be caused to be notified in the London, Edinburgh and Belfast Gazettes published not later than one week before that date.

(4) Subject to paragraph (5), this Order shall extend to England and Wales, Scotland and Northern Ireland.

(5) The extent of any amendment of any enactment or instrument in Schedule 1 is the same as that of the enactment or instrument amended.

(6) In this Order, “the Act” means the Medical Act 1983(2).

### **Amendment of the Act**

- 2. The Act shall be amended in accordance with articles 3 to 15 of this Order.

## **PART II**

### **THE GENERAL MEDICAL COUNCIL**

#### **Main objective of the General Council**

- 3. In section 1 (the General Medical Council) after subsection (1) insert—
  - “(1A) The main objective of the General Council in exercising their functions is to protect, promote and maintain the health and safety of the public.”.

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(2) 1983 c. 54; as amended by the Medical (Professional Performance) Act 1995 (c. 51), the National Health Service (Primary Care) Act 1997 (c. 46) and the National Health Service Reform and Health Care Professions Act 2002 (c. 17), and S.I.1986/23, 1996/1591, 2000/1803 and 2000/3041.

## **Amendments of Schedule 1**

**4.—**(1) Schedule 1 (the General Medical Council and its committees, and the branch councils) is amended as follows.

(2) In paragraph 1 after sub-paragraph (2) insert—

“(3) The General Council shall consist of no more than 35 members.”.

(3) In paragraph 2—

(a) after sub-paragraph (1) insert—

“(1A) The provision that may be made by an electoral scheme includes provision for any of the constituencies listed in sub-paragraph (1)(a) to (d) above to be divided into two or more separate constituencies.”;

(b) for sub-paragraph (4) substitute—

“(4) The persons qualified to elect the elected members for any constituency shall be those who, on a date determined in accordance with the electoral scheme—

(a) are resident in the constituency for which the election is held;

(b) are fully registered, provisionally registered or registered with limited registration; and

(c) are holders of licences to practise.”; and

(c) for sub-paragraph (5) substitute—

“(5) A person shall not be qualified to be elected as an elected member unless he—

(a) is fully registered, provisionally registered or registered with limited registration; and

(b) holds a licence to practise.

(5A) An electoral scheme shall make provision for the disclosure to those qualified to vote at an election of information (including information concerning fitness to practise) relating to a person seeking election.”.

(4) In paragraph 3 for sub-paragraphs (1) and (2) substitute—

“(1) Appointed members shall be chosen by such bodies as are designated for the time being as appointing bodies by an Order in Council under section 1 of this Act.

(2) A person shall not be qualified to be chosen as an appointed member unless he—

(a) is fully registered, provisionally registered or registered with limited registration; and

(b) holds a licence to practise.”.

(5) In paragraph 4 for sub-paragraph (3) substitute—

“(3) A nominated member shall be a person who is neither fully registered nor a holder of any qualification registrable under this Act.”.

(6) After paragraph 4 insert—

### *“Suspension or removal from office of members*

**4A.—**(1) The General Council shall by rules make provision for the suspension or removal from office of a member by the General Council in such circumstances as may be specified in the rules.

(2) Rules under sub-paragraph (1) above shall provide for an elected member or an appointed member to be removed from office if he ceases—

- (a) to be registered; or
- (b) to hold a licence to practise.
- (3) Standing orders of the General Council shall make provision for the procedure by which a member may be suspended or removed from office.
- (4) No rules under sub-paragraph (1) above shall come into force until approved by order of the Privy Council.

*Registration of members' private interests*

**4B.**—(1) The General Council must establish and maintain a system for the declaration and registration of private interests of members of the Council.

(2) The General Council must publish entries recorded in the register of members' private interests.”.

(7) For paragraph 7 substitute—

“**7.**—(1) Notwithstanding paragraph 1(2) above, an Order in Council under section 1 of this Act—

- (a) may make provision permitting elections to fill casual vacancies among the elected members to be held together, but
- (b) may not permit a casual vacancy among the elected members to be left unfilled for a period exceeding six months, except in accordance with paragraph (c) below, and
- (c) may make provision that a casual vacancy among the elected members need not be filled if the unexpired term of the elected member giving rise to the vacancy is less than twelve months.

(2) In sub-paragraph (1) above the “unexpired term” means the period beginning with the date on which the member ceased to be a member and ending with the date on which his full term of office would have expired.”.

(8) For paragraph 13 substitute—

“**13.** The quorum of the General Council shall be prescribed by Her Majesty by Order in Council made under section 1 of this Act.”.

## PART III

### COMMITTEES OF THE COUNCIL

#### Committees

**5.**—(1) The Interim Orders Committee, the Preliminary Proceedings Committee, the Professional Conduct Committee, the Assessment Referral Committee, the Committee on Professional Performance and the Health Committee are abolished.

(2) In section 1 (the General Medical Council) for subsection (3) substitute—

“(3) The General Council shall have the following committees—

- (a) the Education Committee,
- (b) one or more Interim Orders Panels,
- (c) one or more Registration Decisions Panels,

- (d) one or more Registration Appeals Panels,
- (e) the Investigation Committee,
- (f) one or more Fitness to Practise Panels,

constituted in accordance with Part III of Schedule 1 to this Act and having the functions assigned to them by or under this Act.

(3A) The committees of the General Council specified in paragraphs (a) to (f) of subsection (3) above are referred to in this Act as “the statutory committees”.

(3) For paragraphs 19 to 24 of Schedule 1 substitute—

*“Education Committee*

**19.** Subject to the power of the Committee under paragraph 25 below to co-opt members, the composition of the Education Committee shall be such as the General Council think fit.

*Interim Orders Panels*

**19A.** Subject to the restrictions on membership specified in paragraph 23 below and to the power of the Panel under paragraph 25 below to co-opt members, an Interim Orders Panel shall be constituted as provided by rules made under this paragraph by the General Council.

*Registration Decisions Panels*

**19B.** Subject to the power of the Panel under paragraph 25 below to co-opt members, a Registration Decisions Panel shall be constituted as provided by rules made under this paragraph by the General Council.

*Registration Appeals Panels*

**19C.** Subject to the restrictions on membership specified in paragraph 23 below and to the power of the Panel under paragraph 25 below to co-opt members, a Registration Appeals Panel shall be constituted as provided by rules made under this paragraph by the General Council.

*Investigation Committee*

**19D.** Subject to the power of the Committee under paragraph 25 below to co-opt members, the Investigation Committee shall be constituted as provided by rules made under this paragraph by the General Council.

*Fitness to Practise Panels*

**19E.** Subject to the restrictions on membership specified in paragraph 23 below and to the power of the Panel under paragraph 25 below to co-opt members, a Fitness to Practise Panel shall be constituted as provided by rules made under this paragraph by the General Council.

*Supplementary*

**23.** Rules under paragraphs 19A, 19C and 19E above shall secure that—

- (a) only persons who are not members of the General Council shall be members of an Interim Orders Panel, a Registration Appeals Panel or a Fitness to Practise Panel;

- (b) a person who sits as a member of an Interim Orders Panel or Fitness to Practise Panel that has made an interim order in proceedings on any case shall not sit as a member of a Fitness to Practise Panel in any subsequent proceedings in that case; and
- (c) a person who is a member of the Investigation Committee or a Registration Decisions Panel may not at the same time be a member of an Interim Orders Panel, a Registration Appeals Panel or a Fitness to Practise Panel.

**23B.** Rules under paragraph 19A, 19B, 19C, 19D or 19E above may make provision as to quorum.

**24.** Rules under paragraph 19A, 19B, 19C, 19D or 19E above shall not come into force until approved by order of the Privy Council.”.

(4) In paragraph 25—

- (a) in sub-paragraph (1) omit “out of their membership”;
- (b) after sub-paragraph (1) insert—

“(1A) Any committee of the General Council may consist of or include persons who are not members of the Council.”;
- (c) at the beginning of sub-paragraph (2) insert—

“Subject to and in accordance with paragraph 23 above,”; and
- (d) for sub-paragraph (4) substitute—

“(4) Except where rules made by virtue of paragraph 23B above make provision as to quorum in the case of any of the statutory committees, the quorum of a committee of the General Council shall be such as the Council may from time to time determine.

(5) There shall be paid to the members of the committees of the General Council such remuneration and such travelling, subsistence or other expenses as the Council may allow.”.

## PART IV

### REGISTRATION

#### **Registration**

**6.—**(1) Part III (registration of persons qualifying overseas) is amended as follows.

(2) For section 19 (full registration of persons by virtue of recognised overseas qualifications) substitute—

#### **“19 Full registration of EEA nationals etc. by virtue of overseas primary qualifications etc.**

- (1) Where an exempt person satisfies the Registrar—
  - (a) that he holds an acceptable overseas qualification other than a primary European qualification;
  - (b) that he has acquired experience in the practice of medicine, whether in the course of employment in the United Kingdom or in the course of employment outside the United Kingdom, which is not less extensive than that required for a certificate under section 10 above; and
  - (c) that he is of good character,

that person shall, if the General Council think fit so to direct, be registered under this section as a fully registered medical practitioner.

(2) In this Act “exempt person” means a person who—

- (a) is a national of an EEA State other than the United Kingdom;
- (b) is a national of the United Kingdom who is exercising an enforceable Community right; or
- (c) is not a national of an EEA State, but is, by virtue of a right conferred by article 11 of Regulation (EEC) No 1612/68, or any other enforceable Community right, entitled to be treated, for the purposes of access to the medical profession, no less favourably than a national of such a State.

(3) In determining an application by any person for registration under this section, the General Council shall take into account—

- (a) if the applicant holds a qualification granted outside the European Economic Area which has been accepted by another EEA State as qualifying him to practise as a medical practitioner in that State, the acceptance of the qualification; and
- (b) all medical qualifications, knowledge or experience, wherever acquired, which are relevant to the determination of his application.

(4) Subsection (4) of section 10 above shall apply to a person prevented from embarking on, or completing, a period of experience required for the purposes of this section as it applies to a person prevented from embarking on, or completing, a period of experience required for the purposes of that section.”.

(3) Omit section 20 (experience required for full registration by virtue of recognised overseas qualifications).

(4) In section 21 (provisional registration)—

- (a) in subsection (1) for “section 20(2)(a)” substitute “section 19(1)(b)”;
- (b) in subsection (2) omit “, (b)”;
- (c) for subsection (2A) substitute—

“(2A) Subsection (3) of section 19 above applies in relation to an application for registration under this section as it applies in relation to an application for registration under that section.”

(5) After section 21 insert—

**“Full registration for eligible specialists and qualified general practitioners**

**21A.—**(1) Where a person satisfies the Registrar—

- (a) that he holds an acceptable overseas qualification other than a primary European qualification;
- (b) that he is an eligible specialist or a qualified general practitioner;
- (c) that he is of good character; and
- (d) that he has the necessary knowledge of English or is an exempt person,

that person shall, if the General Council think fit so to direct, be registered under this section as a fully registered medical practitioner.

(2) In subsection (1)(b) above—

“eligible specialist” means a person—

- (a) who—

- (i) has specialist medical qualifications awarded outside the United Kingdom in a medical specialty in which the United Kingdom awards a CCST, and
- (ii) has satisfied the competent authority that those qualifications are equivalent to a CCST; or
- (b) who—
  - (i) has specialist medical qualifications awarded outside the United Kingdom in a specialty in which the United Kingdom does not award a CCST, or
  - (ii) has knowledge of or experience in any medical specialty derived from academic or research work,
 and has satisfied the competent authority that these give him a level of knowledge and skill consistent with practice as a consultant in that specialty in the National Health Service; and

“qualified general practitioner” means a person who has been awarded a Certificate of Equivalent Experience by the Joint Committee on Postgraduate Training for General Practice.

(3) In this section—

“CCST” means a Certificate of Completion of Specialist Training; and

“competent authority” means the competent authority for the purpose of article 9(2) and (3) of the European Specialist Medical Qualifications Order 1995.”.

(6) In section 22 (limited registration of persons by virtue of overseas qualifications)—

(a) for subsection (1)(a) substitute—

“(a) that he has been selected for employment in the British Islands of a description approved by the General Council for the purposes of this section;”;

(b) in subsection (1)(c) omit “(within the meaning of section 19 above)”; and

(c) for subsection (1A) substitute—

“(1A) In determining an application by an exempt person for registration under this section, the General Council shall take into account—

(a) if the applicant holds, has held or has passed the examination necessary for obtaining a qualification granted outside the European Economic Area which has been accepted by another EEA State as qualifying him to practise as a medical practitioner in that State, the acceptance of the qualification; and

(b) all medical qualifications, knowledge or experience, wherever acquired, which are relevant to the determination of his application.”.

(7) In section 24(3)(a) (limited registration: erasure) omit “a particular employment or”.

(8) In section 25 (full registration of persons with limited registration) omit “under section 19 above”.

(9) In section 26 (registration of qualifications)—

(a) in subsection (1)—

(i) for “19 or 21” substitute “19, 21 or 21A”,

(ii) for “recognised overseas qualification or qualifications” substitute “acceptable overseas qualification”,

(iii) omit paragraph (a), and



- (iv) in paragraph (b) for the words from “subject to” to “(other than a recognised overseas qualification)” substitute “subject to subsection (3) below, any overseas qualification”; and
- (b) in subsection (2) omit “section 19 above by virtue of”.
- (10) In section 27(1) (temporary full registration for visiting overseas practitioners)—
  - (a) in paragraph (a) omit “recognised overseas qualifications or”;
  - (b) omit the word “and” at the end of paragraph (b); and
  - (c) at the end of paragraph (c) insert  
“;and
  - (d) that he is of good character,”
- (11) Omit sections 28 (the Review Board for Overseas Qualified Practitioners) and 29 (functions of the Review Board).

### **The Register and proof of registration**

- 7.—(1) Part IV (general provisions concerning registration) is amended as follows.
- (2) In section 30 (the registers)—
    - (a) in subsection (1)—
      - (i) for “contain” substitute “include”,
      - (ii) in paragraph (a) from “section 19 or 21” to the end of that paragraph substitute “section 19, 21, 21A or 25 above;”, and
      - (iii) omit paragraph (b); and
    - (b) in each of subsections (2) and (3) for “contain” substitute “include”.
  - (3) In section 31 (power to make regulations with respect to the registers)—
    - (a) omit subsections (5) to (7);
    - (b) in subsection (8) omit “subsection (6) above or”;
    - (c) in subsection (9) omit from “but nothing” to the end of that subsection; and
    - (d) in subsection (10) omit “(5), (6),”.
  - (4) For section 34 (the Medical Register and Overseas Medical Register) substitute—

#### **“34 The Register**

- (1) The Registrar shall cause to be published from time to time (electronically or otherwise) a list of all persons who, on a date specified by him at the time of publication, appear in—
  - (a) the register of medical practitioners; or
  - (b) the register of medical practitioners with limited registration.
- (2) The list published in accordance with subsection (1) above shall include in respect of each practitioner—
  - (a) information about his registered qualifications;
  - (b) a statement about whether or not he holds a licence to practise; and
  - (c) such other particulars (if any) as the General Council may direct in relation to that list.”.
- (5) After section 34 insert—

**“Proof of registration**

**34A.**—(1) The Registrar may issue a certificate that a person—

- (a) is registered;
- (b) is not registered;
- (c) was registered at a specified date or during a specified period;
- (d) was not registered at a specified date or during a specified period;
- (e) has never been registered;
- (f) holds a licence to practise;
- (g) does not hold a licence to practise;
- (h) held a licence to practise at a specified date or during a specified period;
- (i) did not hold a licence to practise at a specified date or during a specified period; or
- (j) has never held a licence to practise.

(2) A certificate issued under subsection (1) above shall be evidence (and in Scotland sufficient evidence) of the matters certified.”.

**Registration appeals**

**8.**—(1) After section 34A insert—

**“Registration appeals**

**34B.** Schedule 3A to this Act (which makes provision about appeals against registration decisions) shall have effect.”.

(2) After Schedule 3 insert—

“SCHEDULE 3A

Section 34B

REGISTRATION APPEALS

**Interpretation**

**1.** In this Schedule—

“appealable registration decision” shall be construed in accordance with paragraph 2 below;

“person concerned” means the person in respect of whom an appealable registration decision is made or, as the case may be, an applicant to whom paragraph 3(2) below applies;

“person making the decision” means—

- (a) in relation to a decision on an application made under paragraph 2 of Schedule 3 to this Act, the appropriate registrar as defined in sub-paragraph (3) of that paragraph;
- (b) in relation to a decision under section 18, 44 or 44A of this Act, the Registrar; and
- (c) in any other case, the General Council; and

“the requisite period” has the meaning given by paragraph 5(1A) of Schedule 3 to this Act.

**Appealable registration decisions**

**2.**—(1) The following decisions are appealable registration decisions for the purposes of this Schedule—

- (a) a decision on an application made under Schedule 3 to this Act not to register the applicant under section 3 of this Act as a fully registered medical practitioner (registration by virtue of primary United Kingdom or primary European qualifications);
  - (b) a decision on an application made under Schedule 3 to this Act not to register the applicant provisionally under section 15 of this Act (provisional registration);
  - (c) a decision on an application made under Schedule 3 to this Act not to register the applicant provisionally under section 15A of this Act (provisional registration for EEA nationals);
  - (d) a decision on an application made under Schedule 3 to this Act not to register a qualification under section 16(1) of this Act (registration of qualifications);
  - (e) a decision that a person shall not, or shall no longer, be registered under section 18 of this Act (visiting EEC practitioners);
  - (f) a decision not to direct that a person shall be registered under section 19(1) of this Act (full registration of EEA nationals etc. by virtue of overseas primary qualifications etc.);
  - (g) a decision not to direct that a person shall be registered provisionally under section 21(2) of this Act (provisional registration);
  - (h) a decision not to direct that a person shall be registered under section 21A(1) of this Act (full registration for eligible specialists and qualified general practitioners) as a fully registered medical practitioner;
  - (i) a decision under section 22 of this Act (limited registration of persons by virtue of overseas qualifications)—
    - (i) not to direct that a person shall be registered, or registered for a further period, as a medical practitioner with limited registration, or
    - (ii) defining the limits of a person’s registration;
  - (j) a decision under section 24(2) of this Act giving a direction for erasure;
  - (k) a decision not to direct under section 25 of this Act (full registration of persons with limited registration) that a person be registered as a fully registered medical practitioner;
  - (l) a decision not to register a qualification under section 26(1) or (2) of this Act (registration of qualifications);
  - (m) a decision under section 27 of this Act (temporary full registration for visiting overseas specialists)—
    - (i) not to direct that a person be registered temporarily as a fully registered medical practitioner, or
    - (ii) giving a direction that such registration shall be for a period of less than twelve months;
  - (n) a decision under section 44 of this Act (effect of disqualification in another member State on registration in the United Kingdom)—
    - (i) under subsection (1) or (7), not to register a person, or
    - (ii) under subsection (3), to remove a person’s name from the register;
  - (o) a decision under section 44A of this Act (effect of disqualification or conviction on registration)—
    - (i) under subsection (1), not to register a person, or
    - (ii) under subsection (2), to remove a person’s name from the register.
- (2) But a decision is not an appealable registration decision for the purposes of this Schedule if it is a decision to refuse registration to a person, or to erase a person’s name from the register, by reason only that the person failed to—

- (a) pay the prescribed fee for registration;
- (b) make an application as required under this Act; or
- (c) produce a certificate obtained under section 10 of this Act.

#### **Notice of appealable registration decisions**

3.—(1) Where an appealable registration decision is made, the person making the decision shall give the person concerned notice of—

- (a) the decision;
- (b) the reasons for the decision; and
- (c) the person's right to appeal under paragraph 4 below.

(2) Failure to notify an applicant of a decision made in respect of an application for registration under section 3, 19, 21A or 22 of this Act within the requisite period shall be treated as a decision from which the applicant may appeal under paragraph 4 below.

#### **Appeals from appealable registration decisions**

4.—(1) A person in respect of whom an appealable registration decision has been made may appeal against the decision to a Registration Appeals Panel.

(2) An appeal under sub-paragraph (1) above shall be made by giving notice of appeal to the Registrar.

(3) Any such notice of appeal must be given before the end of the period of 28 days beginning with the date on which notice of the decision was given under paragraph 3(1) above.

This sub-paragraph is subject to any extension of time under paragraph 7 below.

(4) In the case of an appeal by virtue of paragraph 3(2) above, notice of appeal must be given before the end of the period of 28 days following the end of the requisite period.

(5) Where a decision to erase or remove a medical practitioner from the register is an appealable registration decision, the decision shall not be carried into effect—

- (a) until the time for bringing any appeal against the decision has expired without an appeal being brought; or
- (b) where an appeal is brought, until the date on which the appeal is finally disposed of or abandoned or fails by reason of its non-prosecution.

(6) Any rules made under paragraph 3 of Schedule 3B to this Act shall apply in relation to an appeal under this Schedule as they apply in relation to an appeal under section 29F of this Act.

(7) Paragraphs 2 and 7 of Schedule 4 to this Act shall apply in relation to proceedings under this Schedule before a Registration Appeals Panel as they apply to proceedings before a Fitness to Practise Panel.

(8) In disposing of an appeal under this paragraph, a Registration Appeals Panel may determine to—

- (a) dismiss the appeal;
- (b) allow the appeal and quash the decision appealed against;
- (c) substitute for the decision appealed against any other decision which could have been made by the person making the decision;
- (d) remit the case to the person making the decision to dispose of in accordance with the directions of the Registration Appeals Panel,

and a Panel may make such order as to costs (or, in Scotland, expenses) as they think fit.

- (9) A Registration Appeals Panel shall, as soon as reasonably practicable—
- (a) give the person concerned, and the person making the decision, notice of the Panel's determination on an appeal under sub-paragraph (1) above and of the reasons for that determination; and
  - (b) if that determination is not a determination under sub-paragraph (8)(b) above, give the person concerned notice of his right of appeal under paragraph 5 below.

### **Appeals from a Registration Appeals Panel**

5.—(1) Where—

- (a) a Registration Appeals Panel determines an appeal under paragraph 4 above; and
- (b) the Panel's determination is any determination other than a determination under paragraph 4(8)(b) above to allow the appeal and quash the decision appealed against,

the person concerned may, before the end of the period of 28 days beginning with the date on which notice of the determination was given to him under paragraph 4(9), appeal against the determination to the relevant court.

(2) In this paragraph, "the relevant court" means the county court or, in Scotland, the sheriff.

(3) In sub-paragraph (2) above, "the sheriff" means the sheriff in whose sheriffdom is situated the address—

- (a) which is shown in the register as the address of the person concerned; or
- (b) which would have been so shown if the person concerned were registered.

(4) On an appeal under this paragraph from a Registration Appeals Panel, the relevant court may—

- (a) dismiss the appeal;
- (b) allow the appeal and quash the determination appealed against;
- (c) substitute for the determination appealed against any other determination which could have been made by the Registration Appeals Panel;
- (d) remit the case to the Registrar for him to refer it to a Registration Appeals Panel to dispose of the case in accordance with the directions of the relevant court,

and may make such order as to costs (or, in Scotland, expenses) as the relevant court thinks fit.

### **Notices**

6.—(1) Any notice required to be given under paragraph 3 or 4(9) above to the person concerned may be given—

- (a) by delivering it to him;
- (b) by leaving it at his proper address;
- (c) by sending it by a registered post service; or
- (d) by sending it by a postal service which provides for the delivery of the notice by post to be recorded.

(2) For the purposes of this paragraph and of section 7 of the Interpretation Act 1978 in its application to this paragraph, the proper address of the person concerned shall be—

- (a) the address—
  - (i) which is shown in the register as his address, or
  - (ii) which would have been so shown if he were registered; or

- (b) if the conditions in sub-paragraph (3) below are satisfied, his last known address.
- (3) The conditions are that—
  - (a) the last known address of the person concerned differs from the address mentioned in sub-paragraph (2)(a) above; and
  - (b) it appears to the body or person giving the notice that a letter sent to the person concerned at his last known address is more likely to reach him.
- (4) For the purposes of this paragraph—
  - (a) the giving 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.

### **Extension of time for appealing**

- 7. Where—
  - (a) any notice required by paragraph 3(1) above to be given to the person concerned is given by sending it to him by post; and
  - (b) the Registrar is satisfied, on the application of that person, that he did not receive the notice within the period of 14 days beginning with the day on which the person making the decision gave the decision to which the notice relates, the Registrar may, if he thinks fit, by authorisation in writing extend the time for giving notice of appeal under paragraph 4(2) above.”.

### **Further and supplementary**

- 9.—(1) In section 2(2) (registration of medical practitioners)—
  - (a) for “four lists” substitute “three lists”; and
  - (b) omit paragraph (b).
- (2) In section 16(1)(c) (registration of qualifications) omit “recognised overseas qualification or other”.
- (3) In paragraph 11 of Part II of Schedule 1 (incidental powers and duties and proceedings of the General Medical Council) for “section 19, 21 or 22” substitute “section 21A or 22”.
- (4) In Schedule 3 (registration: supplementary provisions) in paragraph 2 (to which registrar application to be made)—
  - (a) in sub-paragraph (1)(a) for “paragraph (a) of section 3” substitute “section 3(1)(a)”;
  - (b) in sub-paragraph (1)(b) for “section 3(b)” substitute “section 3(1)(b)”;
  - (c) in sub-paragraph (2)(a) for “paragraph (b) of section 3” substitute “section 3(1)(b)”;
  - (d) omit paragraph (b) of sub-paragraph (2).
- (5) In paragraph 5 of that Schedule (issue of certificates of registration)—
  - (a) in sub-paragraph (1)(b), omit the words from “in the case of” to “such a national),”;
  - (b) in sub-paragraph (1A)—
    - (i) for “In sub-paragraph (1) above” substitute “In this paragraph”, and
    - (ii) for sub-paragraph (b) substitute—
      - “(b) in a case to which Directive 93/16/EEC applies, such longer period as is permitted by article 15 of that Directive.”;

- (c) in sub-paragraph (2), for “22” substitute “21A, 22 and 25”; and
- (d) after sub-paragraph (4) insert—

“(4A) A certificate of registration required to be issued under sub-paragraph (2) or (3) above shall be issued before the end of the requisite period.”.

## PART V

### LICENCE TO PRACTISE AND REVALIDATION

#### **Insertion of Part IIIA**

10. After Part III (registration of persons qualifying overseas) insert—

## “PART IIIA

### LICENCE TO PRACTISE AND REVALIDATION

#### *Duty of General Council to make regulations*

#### **Regulations as to licence to practise and revalidation**

**29A.**—(1) Any reference in this Act to a “licence to practise” is a reference to a licence granted under and in accordance with this Part to a medical practitioner by a licensing authority.

(2) The General Council shall make regulations with respect to licences to practise.

(3) The provisions made by regulations under subsection (2) above must include provision for or in connection with each of the matters specified in subsection (4) below.

(4) Those matters are—

- (a) grant of a licence to practise;
- (b) refusal of a licence to practise;
- (c) withdrawal of a licence to practise; and
- (d) revalidation of a medical practitioner of a prescribed description as a condition of his continuing to hold a licence to practise.

(5) In this Part—

“licensing authority” means—

- (a) the Registrar;
- (b) a Registration Decisions Panel;
- (c) such other committee of the General Council as may be prescribed; or
- (d) such other officer of the General Council as may be prescribed;

“prescribed” means prescribed by regulations made by the General Council under subsection (2) above; and

“revalidation” means evaluation of a medical practitioner’s fitness to practise.

*Grant, refusal and withdrawal of licence***Grant, refusal and withdrawal of licence**

**29B.**—(1) Regulations under section 29A above shall provide for a licence to practise to be granted to a medical practitioner—

- (a) on first registration under this Act as a medical practitioner with either full registration or limited registration;
- (b) on being provisionally registered under this Act; and
- (c) in such other cases or circumstances as may be prescribed.

(2) Regulations under section 29A above shall provide for the withdrawal of a licence to practise from a medical practitioner—

- (a) where the practitioner has failed to comply with prescribed requirements of regulations under section 29A above;
- (b) where the licence to practise was fraudulently procured or otherwise incorrectly granted;
- (c) where the medical practitioner requests that the licence to practise be withdrawn; and
- (d) in such other cases or circumstances as may be prescribed.

(3) Regulations under section 29A above shall make provision as to the procedure to be followed in connection with the grant or refusal, or the withdrawal, of a licence to practise by a licensing authority.

(4) If a licensing authority decides—

- (a) to refuse to grant a licence to practise to a medical practitioner; or
- (b) to withdraw a licence to practise from a medical practitioner,

the Registrar shall give the practitioner notice in accordance with subsection (5) below.

(5) The notice required by subsection (4) above is notice of—

- (a) the decision;
- (b) the reasons given for the decision by the licensing authority concerned; and
- (c) the practitioner's right of appeal under section 29F below.

(6) Section 29H below applies in relation to a notice under subsection (4) above.

**Referral to the Investigation Committee**

**29C.**—(1) Regulations under section 29A above shall provide that where, in the course of revalidation, it appears to a licensing authority that the fitness to practise of the medical practitioner concerned may be impaired, the authority may refer the matter to the Investigation Committee.

(2) If a matter is referred to the Investigation Committee in accordance with subsection (1) above, the licensing authority shall take no further action until the matter has been considered—

- (a) by the Investigation Committee; or
- (b) if it is referred by that Committee to a Fitness to Practise Panel, by such a Panel, and has been referred back to the authority.



### *Restoration of licence*

#### **Restoration of licence**

**29D.**—(1) The General Council shall make regulations under section 29A above for and in connection with authorising or requiring a licensing authority, in such cases or circumstances as may be prescribed, to restore a licence to practise to a medical practitioner whose licence to practise has been withdrawn.

(2) Regulations by virtue of subsection (1) above shall make provision as to the procedure to be followed in connection with the restoration, or the refusal of the restoration, of a licence to practise by a licensing authority.

(3) If a licensing authority refuses to restore a licence to practise to a medical practitioner, the Registrar shall give the practitioner notice of—

- (a) the decision;
  - (b) the reasons given for the decision by the licensing authority concerned; and
  - (c) the practitioner's right of appeal under section 29F below.
- (4) Section 29H below applies in relation to a notice under subsection (3) above.

### *Supplementary provisions*

#### **Evidence**

**29E.**—(1) Regulations under section 29A above may make provision for a licensing authority—

- (a) to refuse to grant a licence to practise to a medical practitioner;
- (b) to withdraw a licence to practise from a medical practitioner; or
- (c) to refuse to restore a licence to practise to a medical practitioner,

in any case where the medical practitioner does not provide the licensing authority with such evidence or information as the authority may reasonably request for any of the purposes specified in subsection (2) below.

- (2) The purposes are those of—
- (a) determining whether to grant a licence to practise to the practitioner;
  - (b) revalidation of the practitioner;
  - (c) determining whether to withdraw a licence to practise from the practitioner; and
  - (d) determining whether to restore a licence to practise to the practitioner.

(3) For the purpose of carrying out any function under sections 29A to 29D above in relation to a medical practitioner, a licensing authority may require—

- (a) any medical practitioner (other than that practitioner); or
- (b) any other person,

who, in the opinion of the authority, is able to supply information, or produce any document, which appears relevant to the discharge of any such function, to supply such information or produce such a document.

- (4) For the purpose of reviewing procedures relating to—
- (a) revalidation; or
  - (b) the grant, withdrawal or restoration of a licence to practise,

a licensing authority may require any medical practitioner or other person to supply information or produce any document.

(5) Nothing in subsection (3) or (4) above shall require or permit any disclosure of information which is prohibited by or under any other enactment.

(6) But where information is held in a form in which the prohibition operates because the information is capable of identifying an individual, a licensing authority may, in exercising its functions under subsection (3) or (4) above, require that the information be put into a form which is not capable of identifying that individual.

(7) In determining for the purposes of subsection (5) 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 by or under this section.

(8) Subsections (3) and (4) do not apply in relation to the supplying of information or the production of a document which a person could not be compelled to supply or produce in civil proceedings before the relevant court (within the meaning of section 40(5) below).

(9) In this section “enactment” includes—

- (a) an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament; and
- (b) any provision of, or any instrument made under, Northern Ireland legislation.

## Appeals

**29F.**—(1) If a licensing authority decides under this Part—

- (a) to refuse to grant a licence to practise to a medical practitioner;
- (b) to withdraw a licence to practise from a medical practitioner; or
- (c) to refuse to restore a licence to practise to a medical practitioner,

the practitioner may appeal to a Registration Appeals Panel.

(2) Schedule 3B (which provides for the procedures to be followed before a Registration Appeals Panel) shall apply in relation to any appeal under subsection (1) above.

(3) A decision under this Part to withdraw a licence to practise from a medical practitioner shall not be carried into effect—

- (a) until the time for bringing any appeal against the decision has expired without an appeal being brought; or
- (b) where an appeal is brought, until the date on which the appeal is finally disposed of or abandoned or fails by reason of its non-prosecution.

## Guidance

**29G.**—(1) The General Council may publish guidance for medical practitioners relating to the information and documents to be provided, and any other requirements to be satisfied—

- (a) for the purposes of revalidation; or
- (b) for securing restoration of a licence to practise.

(2) In preparing any such guidance in relation to revalidation, the General Council shall take into account such similarities as there may be between any information or documents to be provided, or any other requirements to be satisfied—

- (a) for the purposes of revalidation; and

- (b) for the purposes of any scheme for the appraisal of medical practitioners which applies within the health service, the Scottish health service or the Northern Ireland health service.
- (3) In subsection (2) above—
  - “the health service” means the health service established in pursuance of the National Health Service Act 1946;
  - “the Northern Ireland health service” means any service provided in pursuance of Article 4(a) of the Health and Personal Social Services (Northern Ireland) Order 1972; and
  - “the Scottish health service” means the health service established in pursuance of the National Health Service (Scotland) Act 1947.

### Notices

- 29H.**—(1) This section applies to any notice required to be given to a medical practitioner under—
- (a) section 29B or 29D above; or
  - (b) paragraph 6 or 7 of Schedule 3B to this Act.
- (2) Any such notice may be so given—
- (a) by delivering it to him;
  - (b) by leaving it at his proper address;
  - (c) by sending it by a registered post service; or
  - (d) by sending it by a postal service which provides for the delivery of the notice by post to be recorded.
- (3) For the purposes of this section and of section 7 of the Interpretation Act 1978 in its application to this section, a medical practitioner’s proper address shall be—
- (a) his address in the register; or
  - (b) if the conditions in subsection (4) below are satisfied, his last known address.
- (4) The conditions are that—
- (a) the practitioner’s last known address differs from his address in the register; and
  - (b) it appears to the body or person giving the notice that a letter sent to the practitioner at his last known address is more likely to reach him.
- (5) For the purposes of this section—
- (a) the giving 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.

### Miscellaneous

- 29J.**—(1) Regulations under section 29A above may provide for the charging of a fee to a medical practitioner in respect of the cost of—
- (a) his revalidation; or
  - (b) the consideration of any application made by him for restoration of a licence to practise.

(2) Any sum payable by a medical practitioner under subsection (1) above may be recovered by the General Council and, in England and Wales or Northern Ireland, shall be recoverable summarily as a civil debt.

(3) Regulations under section 29A above may make different provision for different purposes, cases or circumstances.

(4) Regulations under section 29A above shall not have effect until approved by order of the Privy Council.

(5) Before making regulations under section 29A above, the General Council shall consult such bodies of persons representing medical practitioners, or medical practitioners of any description, as appear to the Council requisite to be consulted.”.

### **Insertion of new Schedule 3B**

11. After Schedule 3A insert—

#### “SCHEDULE 3B

Section 29F

#### LICENCE TO PRACTISE AND REVALIDATION: APPEALS

##### **Manner of, and time for, appealing**

1.—(1) A medical practitioner who wishes to appeal to a Registration Appeals Panel under section 29F of this Act against a decision of a licensing authority must give written notice of appeal to the Registrar.

(2) Any such notice of appeal must be given within the period of 28 days beginning with the day on which the practitioner is given notice of the decision of the licensing authority.

(3) Sub-paragraph (2) above is subject to paragraph 2 below.

##### **Extension of time for appealing**

2. Where—

(a) any notice required by section 29B or 29D to be given to a medical practitioner by the Registrar is given by sending it to him by post; and

(b) the Registrar is satisfied, on the application of the practitioner, that the practitioner did not receive the notice within the period of 14 days beginning with the day on which the licensing authority gave the decision to which the notice relates,

the Registrar may, if he thinks fit, by authorisation in writing extend the time for giving notice of appeal under paragraph 1 above.

##### **Rules as to procedure and evidence**

3.—(1) The General Council shall make rules as to—

(a) the procedure to be followed; and

(b) the rules of evidence which are to apply,

in proceedings before a Registration Appeals Panel.

(2) Rules made under this paragraph shall include provision—

(a) securing that notice of the time and place of any hearing is given, at such time and in such manner as may be specified in the rules, to the medical practitioner to whom the proceedings relate;

- (b) securing that any party to proceedings before a Registration Appeals Panel shall, if he so requires, be entitled to be heard by the Panel;
  - (c) enabling any party to the proceedings to be represented by counsel or 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; and
  - (d) requiring proceedings to be held in public if the medical practitioner to whom the proceedings relate so requests, unless and to the extent that the rules provide otherwise.
- (3) In sub-paragraph (2) above, “party”, in relation to any proceedings, means—
- (a) the medical practitioner to whom the proceedings relate; or
  - (b) the Solicitor to the General Council.
- (4) Paragraphs 2 and 7 of Schedule 4 to this Act shall apply in relation to proceedings before a Registration Appeals Panel as they apply in relation to proceedings before a Fitness to Practise Panel.
- (5) Rules under this paragraph shall not come into force until approved by order of the Privy Council.
- (6) 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.
- (7) 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.
- (8) 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 Council requisite to be consulted.

#### **References to the Investigation Committee**

- 4.—(1) Where a matter—
- (a) arises in the course of proceedings relating to a medical practitioner before a Registration Appeals Panel; and
  - (b) ought, in the opinion of the Panel, to be investigated by the Investigation Committee,
- sub-paragraph (2) below applies.
- (2) In any such case, the Registration Appeals Panel may—
- (a) adjourn the proceedings; and
  - (b) give a direction to the Registrar to refer the matter to the Investigation Committee.

#### **Powers of Registration Appeal Panels disposing of an appeal**

5. In disposing of an appeal under section 29F of this Act by a medical practitioner against a decision of a licensing authority, the determinations that may be made by a Registration Appeals Panel are—
- (a) if the appeal is against a decision to refuse to grant a licence to practise, that a licence to practise should, or (as the case may be) should not, be granted to the practitioner;

- (b) if the appeal is against a decision to withdraw a licence to practise, that a licence to practise should, or (as the case may be) should not, be withdrawn from the practitioner; or
  - (c) if the appeal is against a decision to refuse to restore a licence to practise, that a licence to practise should, or (as the case may be) should not, be restored to the practitioner,
- and a Panel may make such orders as to costs (or, in Scotland, expenses) as they think fit.

### **Successful appeals**

6.—(1) This paragraph applies in any case where, on an appeal under section 29F of this Act by a medical practitioner against a decision of a licensing authority, a Registration Appeals Panel determines—

- (a) that a licence to practise should be granted to the medical practitioner;
  - (b) that a licence to practise should not be withdrawn from the medical practitioner; or
  - (c) that a licence to practise should be restored to the medical practitioner.
- (2) The Registration Appeals Panel shall give notice to the Registrar informing him of the determination and directing him accordingly—
- (a) to grant the licence;
  - (b) not to withdraw the licence; or
  - (c) to restore the licence.
- (3) The Registrar shall give notice of the determination to the medical practitioner.
- (4) Section 29H of this Act applies in relation to any notice under sub-paragraph (2) above.

### **Unsuccessful appeals**

7.—(1) This paragraph applies in any case where, on an appeal under section 29F of this Act by a medical practitioner against a decision of a licensing authority, a Registration Appeals Panel determines—

- (a) that a licence to practise should not be granted to the medical practitioner;
  - (b) that a licence to practise should be withdrawn from the medical practitioner; or
  - (c) that a licence to practise should not be restored to the medical practitioner.
- (2) The Registration Appeals Panel shall give notice to the Registrar—
- (a) informing him of the determination; and
  - (b) if the determination is that a licence to practise should be withdrawn from the medical practitioner, directing him to withdraw the licence.
- (3) The Registrar shall give the medical practitioner notice of—
- (a) the determination; and
  - (b) his right under paragraph 8 below to appeal against the determination.
- (4) Any direction under sub-paragraph (2)(b) above has effect subject to section 29F(3) of this Act (no implementation pending appeal).
- (5) Section 29H of this Act applies in relation to any notice under sub-paragraph (2) above.

### **Further appeal to court against determination within paragraph 7**

8.—(1) Where, on an appeal under section 29F of this Act by a medical practitioner, a Registration Appeals Panel makes a determination falling within sub-paragraph (1) of paragraph 7 above, the practitioner may appeal against the determination.

(2) Any such appeal must be made within the period of 28 days beginning with the day on which the practitioner is given notice under paragraph 7 above of the determination of the Registration Appeals Panel.

(3) Any such appeal must be made to a county court or, in Scotland, to the sheriff.

(4) In sub-paragraph (3) above “the sheriff” means the sheriff in whose sheriffdom is situated the address—

- (a) which is shown in the register as the practitioner’s address; or
- (b) which would be so shown, if the practitioner were registered.

(5) On appeal under this paragraph from a Registration Appeals Panel, the county court or the sheriff may—

- (a) dismiss the appeal;
- (b) allow the appeal and quash the decision appealed against; or
- (c) remit the case to the Registrar for him to refer it to a Registration Appeals Panel to dispose of in accordance with the directions of the court (or the sheriff),

and may make such orders as to costs (or, in Scotland, expenses) as it (or he) thinks fit.”.

### **Supplementary**

12.—(1) For section 30(3) (the registers) substitute—

“(3) Each register shall also include, in respect of each of the persons entered in it, a statement of the following—

- (a) the person’s address;
- (b) the person’s date of registration;
- (c) whether the person holds a licence to practise or not;
- (d) any qualifications which the person is entitled to have registered under section 16 or 26 above; and
- (e) any other particulars prescribed in the case of a person entered in that register.”.

(2) In section 31(9) (power to make regulations with respect to the registers) for paragraph (b) substitute—

“(b) for securing that, in such circumstances as may be prescribed, such a person’s name is not so restored unless—

- (i) the General Council or a committee of the General Council so direct after making such investigation into his fitness to practise as they think fit,
- (ii) the practitioner’s licence to practise is restored in accordance with the regulations, or
- (iii) both (i) and (ii) are met.”.

(3) In section 31A (voluntary removal from the register), after subsection (1) insert—

“(1A) Regulations under subsection (1)(c) above shall provide that, in such circumstances as may be prescribed, a person’s name is not to be restored to the register unless—

- (a) the General Council or a committee of the General Council so direct after making such investigation into his fitness to practise as they think fit;
- (b) the practitioner's licence to practise is restored in accordance with the regulations; or
- (c) both (a) and (b) are met.

(1B) In subsection (1A) above, "prescribed" means prescribed under regulations made under subsection (1) above."

- (4) In section 46 (recovery of fees), in subsections (1) and (3) after the words "fully registered" insert in both places "and holds a licence to practise".
- (5) In section 47 (appointments not to be held except by fully registered practitioners)—
  - (a) in subsection (1) for the words from the beginning to "medical officer" substitute—
 

"Subject to subsection (2) below, only a person who is fully registered and who holds a licence to practise may hold an appointment as physician, surgeon or other medical officer"; and
  - (b) in consequence of that amendment, the sidenote to the section becomes "Appointments not to be held except by fully registered medical practitioners who hold licences to practise".
- (6) In section 48 (certificates invalid if not signed by fully registered practitioner)—
  - (a) at the end add "and holds a licence to practise"; and
  - (b) in consequence of that amendment, the sidenote to the section becomes "Certificates invalid if not signed by fully registered medical practitioners who hold licences to practise".
- (7) After section 49 insert—

**"Penalty for pretending to hold a licence to practise**

**49A.—**(1) If a person who does not hold a licence to practise—

- (a) holds himself out as having such a licence; or
- (b) engages in conduct calculated to suggest that he has such a licence,

he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) Any penalty to which a person is liable on summary conviction under subsection (1) above may be recovered in Scotland by any person before the sheriff or the district court who may, on the appearance or the default to appear of the accused, proceed to hear the complaint, and where the offence is proved or admitted the sheriff or court shall order the accused to pay the penalty as well as such expenses as the sheriff or court shall think fit.

(3) Any sum of money arising from conviction and recovery of penalties as mentioned in subsection (2) above shall be paid to the Treasurer of the General Council."

- (8) In paragraphs 11(1) and (2) of Schedule 6 (transitional and saving provisions) for "fully registered person" substitute "registered medical practitioner".

## PART VI

### FITNESS TO PRACTISE

#### Substitution of Part V

- 13. For Part V (professional conduct and fitness to practise) substitute—



## “PART V

### FITNESS TO PRACTISE AND MEDICAL ETHICS

#### **General Council’s power to advise on conduct, performance or ethics**

**35.** The powers of the General Council shall include the power to provide, in such manner as the Council think fit, advice for members of the medical profession on—

- (a) standards of professional conduct;
- (b) standards of professional performance; or
- (c) medical ethics.

#### **General Council’s power to require disclosure of information**

**35A.—(1)** For the purpose of assisting the General Council or any of their committees in carrying out functions in respect of a practitioner’s fitness to practise, a person authorised by the Council may require—

- (a) a practitioner (except the practitioner in respect of whom the information or document is sought); or
- (b) any other person,

who in his opinion is able to supply information or produce any document which appears relevant to the discharge of any such function, to supply such information or produce such a document.

(2) As soon as is reasonably practicable after the relevant date, the General Council shall require, from a practitioner whose fitness to practise is being investigated, details of any person—

- (a) by whom the practitioner is employed to provide services in, or in relation to, any area of medicine; or
- (b) with whom he has an arrangement to do so.

(3) For the purposes of this section and section 35B below the relevant date is the date specified by the General Council by rules under paragraph 1 of Schedule 4 of this Act.

(4) Nothing in this section shall require or permit any disclosure of information which is prohibited by or under any other enactment.

(5) But where information is held in a form in which the prohibition operates because the information is capable of identifying an individual, the person referred to in subsection (1) above may, in exercising his functions under that subsection, require that the information be put into a form which is not capable of identifying that individual.

(5A) In determining for the purposes of subsection (4) 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 by this section.

(6) Subsection (1) above does not apply in relation to the supplying of information or the production of a document which a person could not be compelled to supply or produce in civil proceedings before the relevant court (within the meaning of section 40(5) below).

(7) For the purposes of subsection (4), “enactment” includes—

- (a) an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament; and

(b) any provision of, or any instrument made under, Northern Ireland legislation.

(8) For the purposes of this section and section 35B below, a “practitioner” means a fully registered person, a provisionally registered person or a person registered with limited registration.

#### **Notification and disclosure by the General Council**

**35B.**—(1) As soon as is reasonably practicable after the relevant date, the General Council shall notify the following of an investigation by the General Council of a practitioner’s fitness to practise—

- (a) the Secretary of State, the Scottish Ministers, the Department of Health, Social Services and Public Safety in Northern Ireland and the National Assembly for Wales; and
- (b) any person in the United Kingdom of whom the General Council are aware—
  - (i) by whom the practitioner concerned is employed to provide services in, or in relation to, any area of medicine, or
  - (ii) with whom he has an arrangement to do so.

(2) The General Council may disclose to any person any information relating to a practitioner’s fitness to practise which they consider it to be in the public interest to disclose.

#### **Functions of the Investigation Committee**

**35C.**—(1) This section applies where an allegation is made to the General Council against—

- (a) a fully registered person;
- (b) a person who is provisionally registered; or
- (c) a person who is registered with limited registration,

that his fitness to practise is impaired.

(2) A person’s fitness to practise shall be regarded as “impaired” for the purposes of this Act by reason only of—

- (a) misconduct;
- (b) deficient professional performance;
- (c) a conviction or caution in the British Islands for a criminal offence, or a conviction elsewhere for an offence which, if committed in England and Wales, would constitute a criminal offence;
- (d) adverse physical or mental health; or
- (e) a determination by a body in the United Kingdom responsible under any enactment for the regulation of a health or social care profession to the effect that his fitness to practise as a member of that profession is impaired, or a determination by a regulatory body elsewhere to the same effect.

(3) This section is not prevented from applying because the allegation is based on a matter alleged to have occurred—

- (a) outside the United Kingdom; or
- (b) at a time when the person was not registered.

(4) The Investigation Committee shall investigate the allegation and decide whether it should be considered by a Fitness to Practise Panel.

(5) If the Investigation Committee decide that the allegation ought to be considered by a Fitness to Practise Panel—

- (a) they shall give a direction to that effect to the Registrar;
- (b) the Registrar shall refer the allegation to a Fitness to Practise Panel; and
- (c) the Registrar shall serve a notification of the Committee’s decision on the person who is the subject of the allegation and the person making the allegation (if any).

(6) If the Investigation Committee decide that the allegation ought not to be considered by a Fitness to Practise Panel, they may give a warning to the person who is the subject of the allegation regarding his future conduct or performance.

(7) If the Investigation Committee decide that the allegation ought not to be considered by a Fitness to Practise Panel, but that no warning should be given under subsection (6) above—

- (a) they shall give a direction to that effect to the Registrar; and
- (b) the Registrar shall serve a notification of the Committee’s decision on the person who is the subject of the allegation and the person making the allegation (if any).

(8) If the Investigation Committee are of the opinion that an Interim Orders Panel or a Fitness to Practise Panel should consider making an order for interim suspension or interim conditional registration under section 41A below in relation to the person who is the subject of the allegation—

- (a) they shall give a direction to that effect to the Registrar;
- (b) the Registrar shall refer the matter to an Interim Orders Panel or a Fitness to Practise Panel for the Panel to decide whether to make such an order; and
- (c) the Registrar shall serve notification of the decision on the person who is the subject of the allegation and the person making the allegation (if any).

(9) In this section—

“enactment” includes—

- (a) an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament; and
- (b) any provision of, or any instrument made under, Northern Ireland legislation; and

“regulatory body” means a regulatory body which has the function of authorising persons to practise as a member of a health or social care profession.

### **Provisions supplementary to section 35C**

**35CC.**—(1) Rules under paragraph 1 of Schedule 4 to this Act may make provision for—

- (a) the Registrar; or
- (b) any other officer of the General Council,

to exercise the functions of the Investigation Committee under section 35C above, whether generally or in relation to such classes of case as may be specified in the rules.

(2) Where, by virtue of subsection (1) above, rules provide for the Registrar to exercise the functions of the Investigation Committee under subsections (5), (7) and (8) of section 35C above, those subsections shall apply in relation to him as if paragraph (a) in each of them were omitted.

(3) Section 35C above also applies in a case where—

- (a) it comes to the attention of the General Council that a person's fitness to practise is called into question by one or more of the matters mentioned in subsection (2) of that section, but
  - (b) no allegation to that effect has been made to the Council against that person,
- and in such a case section 35C shall apply as if an allegation to that effect had been made to the Council against that person.

### **Functions of a Fitness to Practise Panel**

**35D.**—(1) Where an allegation against a person is referred under section 35C above to a Fitness to Practise Panel, subsections (2) and (3) below shall apply.

(2) Where the Panel find that the person's fitness to practise is impaired they may, if they think fit—

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

(3) Where the Panel find that the person's fitness to practise is not impaired they may nevertheless give him a warning regarding his future conduct or performance.

(4) Where a Fitness to Practise Panel have given a direction that a person's registration be suspended—

- (a) under subsection (2) above;
- (b) under subsection (10) or (12) below; or
- (c) under rules made by virtue of paragraph 5A(3) of Schedule 4 to this Act,

subsection (5) below applies.

(5) In such a case, a Fitness to Practise Panel may, if they think fit—

- (a) direct that the current period of suspension shall be extended for such further period from the time when it would otherwise expire as may be specified in the direction;
- (b) except in a health case, direct that the person's name shall be erased from the register; or
- (c) direct that the person's registration shall, as from the expiry of the current period of suspension, be conditional on his compliance, during such period not exceeding three years as may be specified in the direction, with such requirements so specified as the Panel think fit to impose for the protection of members of the public or in his interests,

but, subject to subsection (6) below, the Panel shall not extend any period of suspension under this section for more than twelve months at a time.

(6) In a health case, a Fitness to Practise Panel may give a direction in relation to a person whose registration has been suspended under this section extending his period of suspension indefinitely where—

- (a) the period of suspension will, on the date on which the direction takes effect, have lasted for at least two years; and
  - (b) the direction is made not more than two months before the date on which the period of suspension would otherwise expire.
- (7) Where a Fitness to Practise Panel have given a direction under subsection (6) above for a person's period of suspension to be extended indefinitely, a Fitness to Practise Panel shall review the direction if—
- (a) the person requests them to do so;
  - (b) at least two years have elapsed since the date on which the direction took effect; and
  - (c) if the direction has previously been reviewed under this subsection, at least two years have elapsed since the date of the previous review.
- (8) On such a review the Panel may—
- (a) confirm the direction;
  - (b) direct that the suspension be terminated; or
  - (c) direct that the person's registration be conditional on his compliance, during such period not exceeding three years as may be specified in the direction, with such requirements so specified as the Panel think fit to impose for the protection of members of the public or in his interests.
- (9) Where—
- (a) a direction that a person's registration be subject to conditions has been given under—
    - (i) subsection (2), (5) or (8) above,
    - (ii) subsection (12) below,
    - (iii) rules made by virtue of paragraph 5A(3) of Schedule 4 to this Act, or
    - (iv) section 41A below; and
  - (b) that person is judged by a Fitness to Practise Panel to have failed to comply with any requirement imposed on him as such a condition,
- subsection (10) below applies.
- (10) In such a case, the Panel may, if they think fit—
- (a) except in a health case, direct that the person's name shall be erased from the register; or
  - (b) direct that the person's registration in the register shall be suspended during such period not exceeding twelve months as may be specified in the direction.
- (11) Where a direction that a person's registration be subject to conditions has been given under—
- (a) subsection (2), (5) or (8) above; or
  - (b) rules made by virtue of paragraph 5A(3) of Schedule 4 to this Act,
- subsection (12) below applies.
- (12) In such a case, a Fitness to Practise Panel may, if they think fit—
- (a) except in a health case, direct that the person's name shall be erased from the register;
  - (b) direct that the person's registration in the Register shall be suspended during such period not exceeding twelve months as may be specified in the direction;

- (c) direct that the current period of conditional registration shall be extended for such further period from the time when it would otherwise expire as may be specified in the direction; or
- (d) revoke the direction, or revoke or vary any of the conditions imposed by the direction, for the remainder of the current period of conditional registration,

but the Panel shall not extend any period of conditional registration under this section for more than three years at a time.

### **Provisions supplementary to section 35D**

**35E.**—(1) Where, under section 35D above, a Fitness to Practise Panel—

- (a) give a direction that a person’s name shall be erased from the register;
- (b) give a direction for suspension;
- (c) give a direction for conditional registration; or
- (d) vary any of the conditions imposed by a direction for conditional registration,

the Registrar shall forthwith serve on the person concerned notification of the direction or variation and of his right to appeal against it under section 40 below.

(2) In subsection (1) above—

- (a) references to a direction for suspension include a reference to a direction extending a period of suspension; and
- (b) references to a direction for conditional registration include a reference to a direction extending a period of conditional registration.

(3) While a person’s registration in the register is suspended by virtue of a direction under section 35D—

- (a) he shall be treated as not being registered in the register notwithstanding that his name still appears in it, but
- (b) sections 35C, 35CC and 35D above, and this section, shall continue to apply to him.

(4) In section 35D above, “health case” means any case in which a Fitness to Practise Panel has determined that—

- (a) a person’s fitness to practise is impaired by reason of a matter falling within paragraph (d) of subsection (2) of section 35C above, but
- (b) the person’s fitness to practise is not impaired by any matter falling within any other paragraph of that subsection.

### **Power to order immediate suspension etc. after a finding of impairment of fitness to practise**

**38.**—(1) On giving a direction for erasure or a direction for suspension under section 35D(2), (10) or (12) above, or under rules made by virtue of paragraph 5A(3) of Schedule 4 to this Act, in respect of any person the Fitness to Practise Panel, if satisfied that to do so is necessary for the protection of members of the public or is otherwise in the public interest, or is in the best interests of that person, may order that his registration in the register shall be suspended forthwith in accordance with this section.

(2) On giving a direction for conditional registration under section 35D(2) above, or under rules made by virtue of paragraph 5A(3) of Schedule 4 to this Act, in respect of any person the Fitness to Practise Panel, if satisfied that to do so is necessary for the protection

of members of the public or is otherwise in the public interest, or is in the best interests of that person, may order that his registration be made conditional forthwith in accordance with this section.

(3) Where, on the giving of a direction, an order under subsection (1) or (2) above is made in respect of a person, his registration in the register shall, subject to subsection (4) below, be suspended (that is to say, shall not have effect) or made conditional, as the case may be, from the time when the order is made until the time when—

- (a) the direction takes effect in accordance with—
  - (i) paragraph 10 of Schedule 4 to this Act; or
  - (ii) rules made by virtue of paragraph 5A(3) of that Schedule; or
- (b) an appeal against it under section 40 below or paragraph 5A(4) of that Schedule is (otherwise than by the dismissal of the appeal) determined.

(4) Where a Fitness to Practise Panel make an order under subsection (1) or (2) above, the Registrar shall forthwith serve a notification of the order on the person to whom it applies.

(5) If, when an order under subsection (1) or (2) above is made, the person to whom it applies is neither present nor represented at the proceedings, subsection (3) above shall have effect as if, for the reference to the time when the order is made, there were substituted a reference to the time of service of a notification of the order as determined for the purposes of paragraph 8 of Schedule 4 to this Act.

(6) Except as provided in subsection (7) below, while a person's registration in the register is suspended by virtue of subsection (1) above, he shall be treated as not being registered in the register notwithstanding that his name still appears in it.

(7) Notwithstanding subsection (6) above, sections 35C to 35E above shall continue to apply to a person whose registration in the register is suspended.

(8) The relevant court may terminate any suspension of a person's registration in the register imposed under subsection (1) above or any conditional registration imposed under subsection (2) above, and the decision of the court on any application under this subsection shall be final.

(9) In this section "the relevant court" has the same meaning as in section 40(5) below.

### **Fraud or error in relation to registration**

**39.**—(1) If the General Council are satisfied that any entry in the register has been fraudulently procured or incorrectly made, they may direct that the entry shall be erased from the register.

(2) Where the General Council give a direction for the erasure of a person's name under this section, the Registrar shall forthwith serve on that person a notification of the direction and of his right to appeal against the decision in accordance with section 40 below.

### **Appeals**

**40.**—(1) The following decisions are appealable decisions for the purposes of this section, that is to say—

- (a) a decision of a Fitness to Practise Panel under section 35D above giving a direction for erasure, for suspension or for conditional registration or varying the conditions imposed by a direction for conditional registration;

- (b) a decision of a Fitness to Practise Panel under section 41(9) below giving a direction that the right to make further applications under that section shall be suspended indefinitely; or
  - (c) a decision of the General Council under section 45(6) below giving a direction that the right to make further applications under that section shall be suspended indefinitely.
- (2) A decision of the General Council under section 39 above giving a direction for erasure is also an appealable decision for the purposes of this section.
- (3) In subsection (1) above—
- (a) references to a direction for suspension include a reference to a direction extending a period of suspension; and
  - (b) references to a direction for conditional registration include a reference to a direction extending a period of conditional registration.
- (4) A person in respect of whom an appealable decision falling within subsection (1) has been taken may, before the end of the period of 28 days beginning with the date on which notification of the decision was served under section 35E(1) above, or section 41(10) or 45(7) below, appeal against the decision to the relevant court.
- (5) In subsection (4) above, “the relevant court”—
- (a) in the case of a person whose address in the register is (or if he were registered would be) in Scotland, means the Court of Session;
  - (b) in the case of a person whose address in the register is (or if he were registered would be) in Northern Ireland, means the High Court of Justice in Northern Ireland; and
  - (c) in the case of any other person (including one appealing against a decision falling within subsection (1)(c) above), means the High Court of Justice in England and Wales.
- (6) A person in respect of whom an appealable decision falling within subsection (2) above has been taken may, before the end of the period of 28 days beginning with the date on which notification of the decision was served under section 39(2) above, appeal against the decision to a county court or, in Scotland, the sheriff in whose sheriffdom the address in the register is situated.
- (7) On an appeal under this section from a Fitness to Practise Panel, the court may—
- (a) dismiss the appeal;
  - (b) allow the appeal and quash the direction or variation appealed against;
  - (c) substitute for the direction or variation appealed against any other direction or variation which could have been given or made by a Fitness to Practise Panel; or
  - (d) remit the case to the Registrar for him to refer it to a Fitness to Practise Panel to dispose of the case in accordance with the directions of the court,
- and may make such order as to costs (or, in Scotland, expenses) as it thinks fit.
- (8) On an appeal under this section from the General Council, the court (or the sheriff) may—
- (a) dismiss the appeal;
  - (b) allow the appeal and quash the direction appealed against; or
  - (c) remit the case to the General Council to dispose of the case in accordance with the directions of the court (or the sheriff),



and may make such order as to costs (or, in Scotland, expenses) as it (or he) thinks fit.

(9) On an appeal under this section from a Fitness to Practise Panel, the General Council may appear as respondent; and for the purpose of enabling directions to be given as to the costs of any such appeal the Council shall be deemed to be a party thereto, whether they appear on the hearing of the appeal or not.

### **Restoration of names to the register**

**41.**—(1) Subject to subsections (2) and (6) below, where the name of a person has been erased from the register under section 35D above, a Fitness to Practise Panel may, if they think fit, direct that his name be restored to the register.

(2) No application for the restoration of a name to the register under this section shall be made to a Fitness to Practise Panel—

- (a) before the expiration of five years from the date of erasure; or
- (b) in any period of twelve months in which an application for the restoration of his name has already been made by or on behalf of the person whose name has been erased.

(3) An application under this section shall be made to the Registrar who shall refer the application to a Fitness to Practise Panel.

(4) In the case of a person who was provisionally registered under section 15, 15A or 21 above before his name was erased, a direction under subsection (1) above shall be a direction that his name be restored by way of provisional registration under section 15, 15A or 21 above, as the case requires.

(5) The requirements of Part II or Part III of this Act as to the experience required for registration as a fully registered medical practitioner shall not apply to registration in pursuance of a direction under subsection (1) above.

(6) Before determining whether to give a direction under subsection (1) above, a Fitness to Practise Panel shall require an applicant for restoration to provide such evidence as they direct as to his fitness to practise; and they shall not give such a direction if that evidence does not satisfy them.

(7) A Fitness to Practise Panel shall not give a direction under subsection (1) above unless at the same time in accordance with regulations made by the General Council under this subsection, they direct the Registrar to restore the practitioner's licence to practise.

(8) Subsections (3) to (5) of section 29J above apply to regulations made under subsection (7) above as they apply in relation to regulations made under section 29A above.

(9) Where, during the same period of erasure, a second or subsequent application for the restoration of a name to the register, made by or on behalf of the person whose name has been erased, is unsuccessful, a Fitness to Practise Panel may direct that his right to make any further such applications shall be suspended indefinitely.

(10) Where a Fitness to Practise Panel give a direction under subsection (9) above, the Registrar shall without delay serve on the person in respect of whom it has been made a notification of the direction and of his right to appeal against it in accordance with section 40 above.

(11) Any person in respect of whom a direction has been given under subsection (9) above may, after the expiration of three years from the date on which the direction was given, apply to the Registrar for that direction to be reviewed by a Fitness to Practise Panel and, thereafter, may make further applications for review; but no such application may be made before the expiration of three years from the date of the most recent review decision.

### Interim Orders

**41A.**—(1) Where an Interim Orders Panel or a Fitness to Practise Panel are satisfied that it is necessary for the protection of members of the public or is otherwise in the public interest, or is in the interests of a fully registered person, for the registration of that person to be suspended or to be made subject to conditions, the Panel may make an order—

- (a) that his registration in the register shall be suspended (that is to say, shall not have effect) during such period not exceeding eighteen months as may be specified in the order (an “interim suspension order”); or
- (b) that his registration shall be conditional on his compliance, during such period not exceeding eighteen months as may be specified in the order, with such requirements so specified as the Panel think fit to impose (an “order for interim conditional registration”).

(2) Subject to subsection (9) below, where an Interim Orders Panel or a Fitness to Practise Panel have made an order under subsection (1) above, an Interim Orders Panel or a Fitness to Practise Panel—

- (a) shall review it within the period of six months beginning on the date on which the order was made, and shall thereafter, for so long as the order continues in force, further review it—
  - (i) before the end of the period of six months beginning on the date of the decision of the immediately preceding review; or
  - (ii) if after the end of the period of three months beginning on the date of the decision of the immediately preceding review the person concerned requests an earlier review, as soon as practicable after that request; and
- (b) may review it where new evidence relevant to the order has become available after the making of the order.

(3) Where an interim suspension order or an order for interim conditional registration has been made in relation to any person under any provision of this section (including this subsection), an Interim Orders Panel or a Fitness to Practise Panel may, subject to subsection (4) below—

- (a) revoke the order or revoke any condition imposed by the order;
- (b) vary any condition imposed by the order;
- (c) if satisfied that to do so is necessary for the protection of members of the public or is otherwise in the public interest, or is in the interests of the person concerned, replace an order for interim conditional registration with an interim suspension order having effect for the remainder of the term of the former; or
- (d) if satisfied that to do so is necessary for the protection of members of the public, or is otherwise in the public interest, or is in the interests of the person concerned, replace an interim suspension order with an order for interim conditional registration having effect for the remainder of the term of the former.

(4) No order under subsection (1) or (3)(b) to (d) above shall be made by any Panel in respect of any person unless he has been afforded an opportunity of appearing before the Panel and being heard on the question of whether such an order should be made in his case; and for the purposes of this subsection a person may be represented before the Panel by counsel or a solicitor, or (if rules made under paragraph 1 of Schedule 4 to this Act so provide and he so elects) by a person of such other description as may be specified in the rules.

(5) If an order is made under any provision of this section, the Registrar shall without delay serve a notification of the order on the person to whose registration it relates.

(6) The General Council may apply to the relevant court for an order made by an Interim Orders Panel or a Fitness to Practise Panel under subsection (1) or (3) above to be extended, and may apply again for further extensions.

(7) On such an application the relevant court may extend (or further extend) for up to 12 months the period for which the order has effect.

(8) Any reference in this section to an interim suspension order, or to an order for interim conditional registration, includes a reference to such an order as so extended.

(9) For the purposes of subsection (2) above the first review after the relevant court's extension of an order made by an Interim Orders Panel or a Fitness to Practise Panel or after a replacement order made by an Interim Orders Panel or a Fitness to Practise Panel under subsection (3)(c) or (d) above shall take place—

- (a) if the order (or the order which has been replaced) had not been reviewed at all under subsection (2), within the period of six months beginning on the date on which the relevant court ordered the extension or on which a replacement order under subsection (3)(c) or (d) was made; and
- (b) if it had been reviewed under the provision, within the period of three months beginning on that date.

(10) Where an order has effect under any provision of this section, the relevant court may—

- (a) in the case of an interim suspension order, terminate the suspension;
- (b) in the case of an order for interim conditional registration, revoke or vary any condition imposed by the order;
- (c) in either case, substitute for the period specified in the order (or in the order extending it) some other period which could have been specified in the order when it was made (or in the order extending it),

and the decision of the relevant court under any application under this subsection shall be final.

(11) Except as provided in subsection (12) below, while a person's registration in the register is suspended by virtue of an interim suspension order under this section he shall be treated as not being registered in the register notwithstanding that his name still appears in the register.

(12) Notwithstanding subsection (11) above, sections 35C to 35E above shall continue to apply to a person whose registration in the register is suspended.

(13) This section applies to a provisionally registered person and to a person registered with limited registration whether or not the circumstances are such that he falls within the meaning in this Act of the expression "fully registered person".

(14) In this section "the relevant court" has the same meaning as in section 40(5) above.

#### **Effect of directions or orders on a licence to practise**

**41C.**—(1) Where under this Part or under rules made by virtue of paragraph 5A(3) of Schedule 4 to this Act—

- (a) a direction is given that a medical practitioner's name be erased from the register;  
or
- (b) an order is made or a direction is given that his registration as a medical practitioner be suspended,

the practitioner's licence to practise shall be withdrawn with effect from the date when the direction or order has effect.

- (2) Where a medical practitioner's registration has been suspended and—
- (a) that suspension expires without being further extended;
  - (b) the suspension is brought to an end without any direction for erasure or further suspension being made,

the practitioner's licence to practise shall be restored with effect from the date on which the suspension comes to an end.

### **Proceedings before the Investigation Committee, Interim Orders Panels and Fitness to Practise Panels**

**43.** Schedule 4 to this Act (which contains supplementary provisions about proceedings before the Investigation Committee, Interim Orders Panels and Fitness to Practise Panels) shall have effect.

### **Effect of disqualification in another member State on registration in the United Kingdom**

**44.—(1)** A person who is subject to a disqualifying decision in an EEA State in which he is or has been established in medical practice shall not be entitled to be registered by virtue of section 3(1)(b) above for so long as the decision remains in force in relation to him.

(2) A disqualifying decision in respect of a person is a decision, made by responsible authorities of the EEA State in which he was established in medical practice or in which he acquired a primary United Kingdom or primary European qualification, and—

- (a) expressed to be made on the grounds that he has committed a criminal offence or on grounds related to his professional conduct, professional performance or physical or mental health; and
- (b) having in that State the effect either that he is no longer registered or otherwise officially recognised as a medical practitioner, or that he is prohibited from practising medicine there.

(3) If a person has been registered by virtue of section 3(1)(b) above and it is subsequently shown to the satisfaction of the Registrar that he was subject to a disqualifying decision in force at the time of registration, and that the decision remains in force, the Registrar shall remove the person's name from the register.

- (4) A decision under—
- (a) subsection (1) above not to register a person; or
  - (b) subsection (3) above to remove a person's name from the register,

is an appealable registration decision for the purposes of Schedule 3A to this Act.

(5) If a person has been registered as a fully registered medical practitioner by virtue of section 3(1)(b) above at a time when a disqualifying decision was in force in respect of him, and he has been so registered for a period of not less than one month throughout which the decision had effect—

- (a) a Fitness to Practise Panel may direct that his registration be suspended for such period, not exceeding the length of the first-mentioned period, as the Panel think fit, and the period of suspension shall begin on a date to be specified in the Panel's direction; and

- (b) sections 35E(1) and (3) and 40 and paragraphs 1, 2, 8, 9, 10, 12 and 13 of Schedule 4 to this Act shall have effect, with any necessary modifications, in relation to suspension under this subsection.

(6) Where on or after the date on which a person was registered by virtue of section 3(1)(b) above a disqualifying decision relating to him comes into force, this Part of this Act shall apply, with any necessary modifications, as if it had been found that he had been convicted of the criminal offence referred to in the disqualifying decision, or that his professional conduct, professional performance or physical or mental health had been such as is imputed to him by that decision, as the case may be.

(7) Subsection (1) of section 18 above shall not apply to a person, and that person shall not be registered as a visiting EEA practitioner, at any time when he is subject to a disqualifying decision imposed by a member State or its competent authority (within the meaning of that section).

### **Effect of disqualification or conviction on registration**

**44A.**—(1) Without prejudice to regulations made under section 31 (power to make regulations with respect to the register), the Registrar may, notwithstanding anything in this Act, refuse to register any person under any section of this Act (other than sections 3(1)(b) or 18 above) who—

- (a) has, in the British Islands, been convicted of, or cautioned for, a criminal offence or convicted elsewhere of an offence which, if committed in England and Wales, would constitute a criminal offence; or
- (b) has been the subject of a determination by a body in the United Kingdom responsible under any enactment for the regulation of a health or social care profession to the effect that his fitness to practise as a member of that profession is impaired, or a determination by a regulatory body (within the meaning of section 35C(9) above) elsewhere to the same effect.

(2) If a person has been registered by virtue of any provision of this Act and it is subsequently shown to the satisfaction of the Registrar that—

- (a) he is a person to whom paragraph (a) or (b) of subsection (1) above applies; and
- (b) he had not informed the Registrar of that fact at the time of registration,

the Registrar may remove that person's name from the register.

(3) A decision under—

- (a) subsection (1) above not to register a person; or
- (b) subsection (2) above to remove a person's name from the register,

is an appealable registration decision for the purposes of Schedule 3A to this Act.

(4) If a person has been registered by virtue of any section other than section 3(1)(b) or 18 above at a time when a determination of a kind referred to in subsection (1)(b) above was in force in respect of him, and he has been so registered for a period of not less than one month throughout which the determination had effect—

- (a) a Fitness to Practice Panel may direct that his registration be suspended for such period, not exceeding the length of the first mentioned period, as the Panel think fit, and the period of suspension shall begin on a date to be specified in the Panel's direction; and
- (b) sections 35E(1) and (3) and 40 and paragraphs 1, 2, 8, 9, 10, 12 and 13 of Schedule 4 to this Act shall have effect, with any necessary modifications, in relation to suspension under this subsection.

(5) The General Council may by regulations make provision about the information to be provided to the Registrar by a person seeking registration for the purposes of this section.

(6) The Registrar may refuse to register any person who fails to comply with regulations made under subsection (5) above.

(7) Regulations under subsection (5) above shall not have effect until approved by order of the Privy Council.

(8) In this section “enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament, and any provision of, or any instrument made under, Northern Ireland legislation.

### **Disciplinary provisions affecting practitioners who render services while visiting the United Kingdom**

**45.**—(1) If a national of an EEA State who has medical qualifications entitling him to registration under section 3 above but is not so registered and who renders medical services while visiting the United Kingdom (whether or not registered as a visiting EEA practitioner)

(a) is found by a Fitness to Practise Panel to have been convicted of a criminal offence in any EEA State where he was practising medicine; or

(b) is subject to a finding that his fitness to practise is impaired,

the Panel may, if they think fit, impose on him a prohibition in respect of the rendering of medical services in the United Kingdom in the future.

(2) A prohibition imposed under this section shall either relate to a period specified by a Fitness to Practise Panel or be expressed to continue for an indefinite period.

(3) A person may apply to the General Council for termination of a prohibition imposed on him under this section and the Council may, on any such application, terminate the prohibition or reduce the period of it; but no application may be made under this subsection—

(a) earlier than five years from the date on which the prohibition was imposed; or

(b) in the period of twelve months following a decision made on an earlier application.

(4) Section 18(1) above does not apply to a person, and that person shall not be registered as a visiting EEA practitioner, at a time when he is subject to a prohibition imposed by a Fitness to Practise Panel under this section.

(5) Before determining whether to terminate a prohibition under subsection (3) above, the General Council shall require the person applying for its termination to provide such evidence as they direct as to one or more of his good character, professional competence and health; and they shall not terminate the prohibition if that evidence does not satisfy them.

(6) Where, during the same period of prohibition, a second or subsequent application for termination of the prohibition, made by or on behalf of a person on whom the prohibition has been imposed, is unsuccessful, the General Council may direct that his right to make any further such applications shall be suspended indefinitely.

(7) Where the General Council give a direction under subsection (6) above, the Registrar shall without delay serve on the person in respect of whom it has been made a notification of the direction and of his right to appeal against it in accordance with section 40 above.

(8) Any person in respect of whom a direction has been given under subsection (6) above may, after the expiration of three years from the date on which the direction was made, apply to the General Council for that direction to be reviewed by the General Council and,

thereafter, may make further applications for review; but no such application may be made before the expiration of three years from the date of the most recent review decision.”.

#### **Substitution of Schedule 4**

14. For Schedule 4 (proceedings before Professional Conduct, Health and Preliminary Proceedings Committees) substitute—

#### “SCHEDULE 4

Section 43

#### PROCEEDINGS BEFORE THE INVESTIGATION COMMITTEE, INTERIM ORDERS PANELS AND FITNESS TO PRACTISE PANELS

##### **Procedure of and evidence before the Investigation Committee, Interim Orders Panels and Fitness to Practise Panels**

1.—(1) Subject to the provisions of this paragraph, the General Council shall make rules for the Investigation Committee, Interim Orders Panels and Fitness to Practise Panels with respect to—

- (a) the reference of cases to the Investigation Committee, an Interim Orders Panel or a Fitness to Practise Panel; and
- (b) the procedure to be followed and rules of evidence to be observed in proceedings before that Committee or such a Panel.

(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.

(3) Rules made under this paragraph in connection with the consideration by an Interim Orders Panel or a Fitness to Practise Panel 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 the Panel 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 the Panel 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 the Panel; and

- (e) determining when proceedings before the Panel 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 a Fitness to Practise Panel 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 a Panel;
  - (c) enabling any party to the proceedings to be represented before the Panel 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) in relation to conduct, conviction or determination proceedings, for proceedings before a Panel to be held in public unless and to the extent that the rules provide otherwise; and
  - (e) in relation to health or performance proceedings, requiring proceedings before a Panel to be held in public if the person concerned so requests unless and to the extent that the rules provide otherwise.
- (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.
- (10) In this paragraph—
- “conduct proceedings” means proceedings involving an allegation of a kind mentioned in section 35C(2)(a) above;
- “performance proceedings” means proceedings involving an allegation of a kind mentioned in section 35C(2)(b) above;
- “conviction proceedings” means proceedings involving an allegation of a kind mentioned in section 35C(2)(c) above;
- “health proceedings” means proceedings involving an allegation of a kind mentioned in section 35C(2)(d) above; and
- “determination proceedings” means proceedings involving an allegation of a kind mentioned in section 35C(2)(e) above.
- 2.—(1) For the purpose of proceedings in England or Wales or in Northern Ireland before—



- (a) the Investigation Committee;
- (b) an Interim Orders Panel; or
- (c) a Fitness to Practise Panel,

the Committee or Panel 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 Supreme Court 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, an Interim Orders Panel or a Fitness to Practise Panel 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, an Interim Orders Panel or a Fitness to Practise Panel in Scotland, the Committee or Panel 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 or Panel 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.

### 3. Where—

- (a) several sittings of the Investigation Committee, an Interim Orders Panel or a Fitness to Practise Panel or the General Council are required to enable the Committee, a Panel or the Council 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 a Fitness to Practise Panel or to the General Council for the Panel or the Council to dispose of the case in accordance with directions given by the court,

the validity of the proceedings on the case before the Committee, Panel or Council, as the case may be, shall not be called into question by reason only that members of the Committee, Panel or Council who were present at a former meeting were not present at a later meeting of the Committee, Panel or Council or that members present at a later meeting were not present at a former meeting of the Committee, Panel or Council, as the case may be.

### **Reference and transfer of cases to the Investigation Committee**

**3A.**—(1) Where in the course of any proceedings before a Fitness to Practise Panel, the Panel are of the opinion that a matter arises which ought to be investigated by the Investigation Committee or considered by another Fitness to Practise Panel—

- (a) that Panel may give a direction to that effect to the Registrar; and
- (b) that matter shall be referred by the Registrar to that Committee, or another Fitness to Practise Panel.

(2) Nothing in sub-paragraph (1) above shall prevent that Fitness to Practise Panel from considering that matter itself, whether or not it has reached a decision in the proceedings.

**Professional Performance Assessments**

**5A.—**(1) The General Council may make rules—

- (a) authorising the giving of directions by any of—
  - (i) the Investigation Committee,
  - (ii) a Fitness to Practise Panel,
  - (iii) such other persons as may be specified in the rules,

requiring an assessment of the standard of a registered person's professional performance to be carried out;

- (b) specifying circumstances in which such an assessment may be carried out otherwise than in accordance with a direction.

(2) An assessment carried out by virtue of this paragraph shall be carried out by an Assessment Team in accordance with rules under this paragraph; and the rules shall, in particular, provide—

- (a) for the constitution and proceedings of Assessment Teams;
- (b) for the procedures to be followed by such Teams in carrying out assessments; and
- (c) for the procedures to be followed following the making of a report by an Assessment Team.

(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.

(3) Rules under this paragraph may authorise a Fitness to Practise Panel to make directions of a kind which may be made under section 35D of this Act, for the suspension of, or the attachment of conditions to a person's registration, where the person fails to comply with reasonable requirements imposed by an Assessment Team for the purposes of carrying out an assessment of the standard of his professional performance in accordance with a direction made under rules under this paragraph.

(3A) Rules under this paragraph may provide for the Investigation Committee to give a direction to the Registrar that a case be referred, or for the Registrar to refer a case, to a Fitness to Practise Panel for the purposes of that Panel making a direction under paragraph (3) above.

(5) An appeal shall lie to the relevant court (within the meaning of section 40(5) of this Act) from any direction of a Fitness to Practise Panel given by virtue of sub-paragraph (3) 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 the Panel could have made; or
- (c) remit the case to the Registrar for him to refer it to a Fitness to Practise Panel to be disposed of in accordance with the court's directions,

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

(6) An Assessment Team, for the purposes of carrying out an assessment of the standard of a person's professional performance—

- (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 in legible form.

(7) A person who, without reasonable excuse, obstructs an Assessment Team in the execution of their 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 may, in exercising their 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.

**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 that there are reasonable grounds for suspecting that the team 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) 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.

#### **Proceedings for erasure of entries fraudulently or incorrectly made**

**6.—**(1) The General Council shall make rules with respect to the discharge by the Council of their functions under section 39 of this Act.

(2) If the Council delegate their functions under that section to a Fitness to Practise Panel or other committee, rules shall make provision with respect to the discharge of those functions by the Panel or committee.

(3) Sub-paragraph (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.

#### **Legal assessors**

**7.—**(1) For the purposes of advising—

- (a) the Investigation Committee where it is considering giving a warning to a person;
- (b) an Interim Orders Panel; or

(c) a Fitness to Practise Panel,

on questions of law arising in proceedings before them, there shall in all such proceedings be an assessor to the Panel who shall be appointed by the General Council and shall be—

- (i) a person who has a 10 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990,
- (ii) an advocate or solicitor in Scotland of at least 10 years' standing, or
- (iii) a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 10 years' standing.

(2) An assessor may be appointed under this paragraph either generally or for any particular proceedings or class of proceedings.

(3) The Lord Chancellor or, in relation to proceedings in Scotland, the Secretary of State 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, an Interim Orders Panel or a Fitness to Practise Panel may in particular contain such provisions as appear to the Lord Chancellor or the Secretary of State expedient for—

- (a) securing that where an assessor advises the Committee or a Panel 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 the Panel have begun their deliberations;
- (b) securing that every such party or person shall be informed if in any case the Committee or the Panel do not accept the advice of the assessor on any such question,

and may also contain such incidental and supplementary provisions as appear to the Lord Chancellor or the Secretary of State expedient.

(5) The General Council may pay to persons appointed to act as assessors such remuneration as the Council may determine.

(6) The power to make rules under this paragraph shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

#### **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), 41(10), 41A(5) or 45(7) of this Act.

(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; or
- (d) by sending it by a postal service which provides for the delivery of the notice by post to be recorded.

(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
  - (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.

**Extension of time for appealing**

9. Where—
- (a) any notice required by section 35E(1) or 39(2) of this Act to be served on a person by the Registrar is served on him by sending it by post; and
  - (b) the Registrar is 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 may, if he thinks fit, by authorisation in writing extend the time within which an appeal under section 40 of this Act may be brought against the decision.

**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 a Fitness to Practise Panel under section 35D of this Act, a variation by a Fitness to Practise Panel under section 35D(12) or a direction for erasure given by the General Council under section 39 of this Act 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.

(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.

**11.**—(1) If, while a person’s registration is suspended under section 35D(2) of this Act, a direction is given under subsection (5) or (8)(a) or (c) of that section, 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 the direction takes effect in accordance with paragraph 10 above or an appeal against it under section 40 of this Act is (otherwise than by the dismissal of the appeal) determined.

(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 section 35D(2) of this Act, a direction is given under subsection (10) or (12) of that section 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 the direction takes effect in accordance with paragraph 10 above or an appeal against it under section 40 of this Act is (otherwise than by the dismissal of the appeal) determined.

(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.

#### **Recording of directions for suspension or conditional registration**

**12.** Where a direction under section 35D of this Act or under rules made by virtue of paragraph 5A(3) of this Schedule 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.

#### **Meaning of “party”**

**13.** In this Schedule “party”, in relation to proceedings before the Investigation Committee, an Interim Orders Panel or Fitness to Practise Panel means any person to whose registration the proceedings relate, or the Solicitor to the General Council.”.

## **PART VII**

### **MISCELLANEOUS**

#### **Miscellaneous Amendments**

**15.**—(1) In section 10(1) (experience required for full registration by virtue of primary United Kingdom qualifications) and in paragraph 2(1)(a) of Schedule 3 (registration: supplementary provisions) for “section 3(a)” or “paragraph (a) of section 3” as the case may be substitute “section 3(1)(a)”.

(2) For section 47(3) (appointments not to be held except by fully registered practitioners: effect of suspension) substitute—

“(3) None of the suspension events mentioned in subsection (4) below shall terminate any appointment such as is mentioned in subsection (1) above, but the person suspended shall not perform the duties of such an appointment during the suspension.

(4) The suspension events are—

- (a) the suspension of registration of a person by a Fitness to Practise Panel—
    - (i) following a finding of impairment of fitness to practise by reason of deficient professional performance or adverse physical or mental health under section 35D above, or
    - (ii) under rules made by virtue of paragraph 5A(3) of Schedule 4 to this Act;
  - (b) an order for immediate suspension by a Fitness to Practise Panel under section 38(1) above; or
  - (c) an interim suspension order by an Interim Orders Panel or a Fitness to Practise Panel under section 41A above (or such an order as extended under that section).”.
- (3) In section 50(1)(b) (default powers of Privy Council)—
- (a) for “13” substitute “13 or”; and
  - (b) omit “or 34(2)”.
- (4) After section 52 insert—

#### **“Annual reports**

**52A.**—(1) The General Council shall publish at least once in each calendar year a statistical report which indicates the efficiency and effectiveness of the arrangements the Council has put in place to protect the public from persons whose fitness to practise is impaired, together with the General Council’s observations on the report.

- (2) The General Council—
- (a) within such time as may be specified by the Privy Council, shall submit a report to it on the General Council’s exercise of its functions during the period specified by the Privy Council; and
  - (b) thereafter shall submit such a report once in each year in respect of the period since its last such report.
- (3) The Privy Council shall lay before each House of Parliament a copy of the report submitted by the Council under subsection (2) above.”.
- (5) In section 53(2) (proof of certain instruments) for paragraph (c) substitute—
- “(c) an order of a Fitness to Practise Panel under section 38 above; and”.
- (6) In section 55(1) (interpretation)—
- (a) omit the definition of “recognised overseas qualification”;
  - (b) in the definition of “fully registered person” for “section 3, 19 or 27” substitute “section 3, 19, 21A, 25 or 27”;
  - (c) insert each of the following definitions at the appropriate place—
    - ““exempt person” has the meaning given in section 19(2) above;”;
    - ““impaired”, in relation to a person’s fitness to practise, has the meaning given in section 35C(2) above;”;
    - ““licence to practise” has the meaning given in section 29A above;”;
    - ““professional performance” includes a medical practitioner’s professional competence;”;
    - ““revalidation” has the meaning given in section 29A above;”;
    - and
    - ““the statutory committees” has the meaning given in section 1(3A) above;”.
- (7) In Schedule 1 (the General Medical Council and its committees and branch councils)—

- (a) after paragraph 9 insert—

“**9A.** In exercising their functions, the General Council shall co-operate wherever appropriate and reasonably practicable with public authorities or other bodies or persons concerned with—

- (a) the employment (whether or not under a contract of service) of registered medical practitioners;
- (b) the education of medical practitioners, prospective medical practitioners or other health care professionals;
- (c) the regulation of other health or social care professions; or
- (d) the regulation of health services.

**9B.**—(1) For the purposes of ensuring that registered medical practitioners and the public are informed about the General Council and the exercise by them of their functions, the Council shall publish or provide in such manner as they think fit information about the Council and the exercise of their functions.

(2) Nothing in sub-paragraph (1) above authorises or requires the publication or provision of information if the publication or provision of that information is—

- (a) prohibited by any enactment; or
- (b) would constitute or be punishable as a contempt of court.

(3) In sub-paragraph (2) above “enactment” includes—

- (a) an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament; and
- (b) any provision of, or any instrument made under, Northern Ireland legislation.”, and the italic heading immediately preceding paragraph 9 accordingly becomes “*Incidental powers and duties*”;

- (b) in paragraph 16—

- (i) in sub-paragraph (2) at the beginning omit “The President and”,
- (ii) in sub-paragraph (3), after “any reference in this Act to the Registrar,” insert “or in a direction or delegation to him under sub-paragraph (4) below,”, and
- (iii) after sub-paragraph (3) insert—

“(4) Subject to paragraph 6 of Schedule 4 to this Act, the Registrar shall, in addition to the functions specifically mentioned in this Act, have such other functions as the General Council may think fit to direct him to perform or delegate to him (whether or not in rules or standing orders).”;

- (c) for paragraph 17 substitute—

“**17.** There shall be paid to the members of the General Council such remuneration and such travelling, subsistence or other expenses as the Council may allow, including payments for duties undertaken as trustees of the Council.”;

- (d) in paragraph 26 for sub-paragraph (2) substitute—

“(2) The branch council for each area shall be constituted as provided by the General Council.

(2A) Some or all members of a branch council may be persons who are not members of the General Council.”; and

- (e) for paragraph 29 substitute—



“29. There shall be paid to the members of the branch councils such remuneration and such travelling, subsistence or other expenses as the General Council may allow.”.

**Consequential, transitional, transitory and saving provisions etc.**

16.—(1) The consequential amendments and revocations contained in Schedule 1 to this Order shall have effect.

(2) The transitional, transitory and saving provisions in Schedule 2 to this Order shall have effect.

(3) The Privy Council may by Order make such further transitional, transitory or saving provisions as it considers appropriate.

(4) The power to make an Order under paragraph (3) above is exercisable by statutory instrument and a statutory instrument containing such an Order shall be subject to annulment in pursuance of a resolution of either House of Parliament and for the purposes of section 1 of the Statutory Instruments Act 1946(3) this provision shall have effect as if contained in an Act of Parliament.

(5) The power vested in the Privy Council to make an Order under paragraph (3) above may be exercised by any two or more of the lords and others of the Council.

*A. K. Galloway*  
Clerk of the Privy Council

## SCHEDULE 1

Article 16(1)

## CONSEQUENTIAL AMENDMENTS

## PART I

## PRIMARY LEGISLATION

**Prison Act 1952 (c. 52)**

1. In section 7 of the Prison Act 1952(4) (prison officers), in subsection (4), for “duly registered under the Medical Acts” substitute “a registered medical practitioner”.

**Human Tissue Act 1961 (c. 54)**

2. In section 2 of the Human Tissue Act 1961(5) (post-mortem examinations) after “fully registered medical practitioner” insert “who holds a licence to practise”.

**Human Tissue Act (Northern Ireland) 1962 (c. 19 (N.I.))**

3. In section 2(2) of the Human Tissue Act (Northern Ireland) 1962 (post-mortem examinations), after “registered medical practitioner” insert “who holds a licence to practise”.

**Children and Young Persons Act 1963 (c. 37)**

4. In section 26 of the Children and Young Persons Act 1963(6) (medical evidence by certificate), after “a fully registered medical practitioner” insert “who holds a licence to practise”.

**Criminal Procedure (Insanity) Act 1964 (c. 84)**

5. In section 8(2) of the Criminal Procedure (Insanity) Act 1964(7) (interpretation), in the definition of “registered medical practitioner”, after “Medical Act 1983” insert “who holds a licence to practise”.

**Criminal Appeal Act 1968 (c. 19)**

6. In section 51(1) of the Criminal Appeal Act 1968(8) (interpretation), in the definition of “registered medical practitioner” after “Medical Act 1983” insert “who holds a licence to practise”.

(4) Section 7 was previously amended by the Sex Discrimination Act 1975 (c. 65), section 18(2); and modified by the Criminal Justice Act 1991 (c. 53), section 87.

(5) Section 2 was previously amended by the Anatomy Act 1984 (c. 14), section 13.

(6) Section 26 was previously amended by the Criminal Justice Act 1991 (c. 53), section 100 and Schedule 11, paragraph 40.

(7) Section 8 was previously amended by: the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25), sections 7, 8(1)(c) and (3), Schedule 3, paragraph 1 and Schedule 4; and the Mental Health Act 1983 (c. 20), section 148(1) and (2), and Schedule 4, paragraph 18(b).

(8) Section 51 was previously amended by: the Courts Act 1971 (c. 23), section 56(1) and Schedule 8, paragraph 57(3) of Part II; the Immigration Act 1971 (c. 77), section 34(1) and 35(1) and Schedule 6; the Supreme Court Act 1981 (c. 54), section 152(4) and Schedule 7; the Mental Health Act 1983 (c. 20), section 148 and Schedule 4, paragraph 23; the Criminal Procedure (Insanity and Unfitness to Plead) Act 1991 (c. 25), section 7 and Schedule 3, paragraph 5; and S.I. 2000/90.

### **Health and Safety at Work etc. Act 1974 (c. 37)**

7.—(1) In section 56 of the Health and Safety at Work etc. Act 1974 (functions of authority responsible for maintaining the service), at the end of subsection (2) add “who holds a licence to practise”.

(2) In section 60 of the Health and Safety at Work etc. Act 1974(9) (supplementary) in subsection (1), after “fully registered medical practitioner” insert “who holds a licence to practise”.

### **National Health Service Act 1977 (c. 49)**

8. For section 29(8) and (9) of the National Health Service Act 1977(10) (arrangements and regulations for general medical services) substitute—

“(8) Where the registration of a medical practitioner in the register of medical practitioners is suspended—

- (a) by a direction of a Fitness to Practise Panel under section 35D of the Medical Act 1983 (impairment of fitness to practise) following a finding that his fitness to practise was impaired by reason of his physical or mental health;
- (b) by an order of a Fitness to Practise Panel under section 38(1) of that Act (power to order immediate suspension etc.); or
- (c) by an interim order under section 41A of that Act (interim orders),

the suspension shall not terminate any arrangements made with him for the provision of general medical services, but he shall not provide such services during the suspension.

(9) Where the registration of a medical practitioner in the register of medical practitioners is suspended—

- (a) by a direction of a Fitness to Practise Panel under section 35D of the Medical Act 1983 (impairment of fitness to practise) following a finding that his fitness to practise was impaired by reason of deficient professional performance;
- (b) by an order of a Fitness to Practise Panel under section 38(1) of that Act (power to order immediate suspension etc.); or
- (c) under rules made by virtue of paragraph 5A(3) of Schedule 4 to that Act (procedure of committees),

the suspension shall not, except in so far as provided by a determination in accordance with regulations under subsection (2) above, terminate any arrangements made with him for the provision of general medical services, but he shall not provide such services during the suspension.”.

### **National Health Service (Scotland) Act 1978 (c. 29)**

9. For section 19(7) and (7A) of the National Health Service (Scotland) Act 1978(11) (arrangements and regulations for general medical services) substitute—

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(9) Section 60 was previously amended by: the Health Authorities Act 1995 (c. 17), section 2(1) and Schedule 1, paragraph 99; and the National Health Service Reform and Health Care Professions Act 2000 (c. 17), section 2(5) and Schedule 2, paragraph 41 of Part 2.

(10) Section 29 was extended by the Health and Medicines Act 1988 (c. 49), section 17, and amended by: the Health Services Act 1980 (c. 53), sections 1 and 7 and Schedule 1, paragraph 42(b); the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 6, paragraph 2; the Medical Act 1983 (c. 54), section 56(1) and Schedule 5, paragraph 16(a); S.I. 1985/39, article 7(3); the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 18; and the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, paragraph 8. Subsection (9) was added by paragraph 28 of the Schedule to the Medical (Professional Performance) Act 1995 (c. 51).

(11) Subsection (7A) was added by paragraph 29 of the Schedule to the Medical (Professional Performance) Act 1995.

*Status: This is the original version (as it was originally made).*

“(7) Where the registration of a medical practitioner in the register of medical practitioners is suspended—

- (a) by a direction of a Fitness to Practise Panel under section 35D of the Medical Act 1983 (impairment of fitness to practise) following a finding that his fitness to practise was impaired by reason of his physical or mental health;
- (b) by an order of a Fitness to Practise Panel under section 38(1) of that Act (power to order immediate suspension etc.); or
- (c) by an interim order under section 41A of that Act (interim orders),

the suspension shall not terminate any arrangements made with him for the provision of general medical services, but he shall not provide such services during the suspension.

(7A) Where the registration of a medical practitioner in the register of medical practitioners is suspended—

- (a) by a direction of a Fitness to Practise Panel under section 35D of the Medical Act 1983 (impairment of fitness to practise) following a finding that his fitness to practise was impaired by reason of deficient professional performance;
- (b) by an order of a Fitness to Practise Panel under section 38(1) of that Act (power to order immediate suspension etc.); or
- (c) under rules made by virtue of paragraph 5A(3) of Schedule 4 to that Act (procedure of committees),

the suspension shall not, except in so far as provided by a determination in accordance with regulations under subsection (2) above, terminate any arrangements made with him for the provision of general medical services, but he shall not provide such services during the suspension.”.

### **Interpretation Act 1978 (c. 30)**

**10.** In Schedule 1 to the Interpretation Act 1978(12) (words and expressions defined) for the definition of “Registered medical practitioner” substitute—

““Registered medical practitioner” means a fully registered person within the meaning of the Medical Act 1983 who holds a licence to practise under that Act.”.

### **Dentists Act 1984 (c. 24)**

**11.** For section 37(3) of the Dentists Act 1984 (definition of practice of dentistry) substitute—

“(3) In this section “medical authority” means one of the universities or other bodies listed in section 4(2) of the Medical Act 1983 (qualifying examinations and primary United Kingdom qualifications) which is entitled to hold qualifying examinations for the purpose of granting one or more primary United Kingdom medical qualifications.”.

### **Merchant Shipping Act 1995 (c. 21)**

**12.** In section 53 of the Merchant Shipping Act 1995 (medical treatment on board ship), for “doctor” substitute “registered medical practitioner”.

### **National Health Service Reform and Health Care Professions Act 2002 (c. 17)**

**13.** In section 29(1) of the National Health Service Reform and Health Care Professions Act 2002 (reference of disciplinary cases by Council to courts), for paragraphs (c) and (d) substitute—

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(12) This definition was previously amended by the Medical Act 1983 (c. 54), section 56(1) and Schedule 5, paragraph 18.

- “(c) a direction by a Fitness to Practise Panel of the General Medical Council under section 35D of the Medical Act 1983 (c. 54) that the fitness to practise of a medical practitioner was impaired otherwise than by reason of his physical or mental health.”.

## PART II

### SECONDARY LEGISLATION

#### **Pottery (Health and Welfare) Special Regulations 1950**

14. In regulation 2(2) of the Pottery (Health and Welfare) Special Regulations 1950(13) (interpretation), in the definition of “appointed doctor” after “fully registered medical practitioner” insert “who holds a licence to practise”.

#### **Mines (Medical Examinations) Regulations 1964**

15. In regulation 5(8) of the Mines (Medical Examination) Regulations 1964(14) (medical examination of young persons and the giving of certificates), after “fully registered medical practitioner” insert “who holds a licence to practise”.

#### **Health and Personal Social Services (Northern Ireland) Order 1972**

16. For Article 56(4C) and (4D) of the Health and Personal Social Services (Northern Ireland) Order 1972(15) (arrangements for general medical services) substitute—

“(4C) Where the registration of a medical practitioner in the register of medical practitioners is suspended—

- (a) by a direction of a Fitness to Practise Panel under section 35D of the Medical Act 1983 (impairment of fitness to practise) following a finding that his fitness to practise was impaired by reason of his physical or mental health;
- (b) by an order of a Fitness to Practise Panel under section 38(1) of that Act (power to order immediate suspension etc.); or
- (c) by an interim order under section 41A of that Act (interim orders),

the suspension shall not terminate any arrangements made with him for the provision of general medical services, but he shall not provide such services during the suspension.

(4D) Where the registration of a medical practitioner in the register of medical practitioners is suspended—

- (a) by a direction of a Fitness to Practise Panel under section 35D of the Medical Act 1983 (impairment of fitness to practise) following a finding that his fitness to practise was impaired by reason of deficient professional performance;
- (b) by an order of a Fitness to Practise Panel under section 38(1) of that Act (power to order immediate suspension etc.); or
- (c) under rules made by virtue of paragraph 5A(3) of Schedule 4 to that Act (procedure of committees),

the suspension shall not, except in so far as provided by a determination in accordance with regulations under paragraph (2), terminate any arrangements made with him for the

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(13) S.I. 1950/65.

(14) S.I. 1964/209; the relevant amending instrument is S.I. 1974/2013.

(15) S.I. 1972/1265 (N.I. 14).

provision of general medical services, but he shall not provide such services during the suspension.”.

#### **Rabies (Importation of Dogs, Cats and Other Mammals) Order 1974**

**17.** In article 2(1) of the Rabies (Importation of Dogs, Cats and Other Mammals) Order 1974<sup>(16)</sup> (interpretation), in the definition of “registered medical practitioner” at the end add “who holds a licence to practise”.

#### **Pharmaceutical Society (Statutory Committee) Order of Council 1978**

**18.** In Part IV of the Appendix to the Pharmaceutical Society (Statutory Committee) Order of Council 1978<sup>(17)</sup> (applications for relief from consequences of previous decisions), in regulation 31, for “the Medical Acts 1956 to 1969” substitute “the Medical Act 1983, including a fully registered medical practitioner who does not hold a licence to practise,”.

#### **Health and Safety at Work (Northern Ireland) Order 1978**

**19.—(1)** In Article 48 of the Health and Safety at Work (Northern Ireland) Order 1978<sup>(18)</sup> (the employment medical advisory service), at the end of paragraph (4) add “who holds a licence to practise”.

(2) In Article 50 of the Health and Safety at Work (Northern Ireland) Order 1978 (supplementary) after “fully registered medical practitioner” insert “who holds a licence to practise”.

#### **General Medical Council (Review Board for Overseas Qualified Practitioners Rules) Order of Council 1979**

**20.** In the Appendix to the General Medical Council (Review Board for Overseas Qualified Practitioners Rules) Order of Council 1979<sup>(19)</sup>—

(a) for rule 10 substitute—

“**10.—(1)** There shall be an oral hearing of the application if the applicant so requests in the application mentioned in rule 9(a) or if the Board considers that such a hearing is desirable.

(2) Subject to paragraph (3), the hearing shall be in public if the applicant so requests or if the Board otherwise considers it appropriate but the Board may, if satisfied that it is in the interests of the applicant, exclude the public from being present during any part of the proceedings.

(3) The Board may for the purpose of deliberation, at any time exclude the applicant, his representative, any representative of the Council or the public.”; and

(b) in rule 11—

- “(i) omit paragraph (a),
- (ii) in paragraph (b) omit “also”, and
- (iii) omit paragraph (f).”

<sup>(16)</sup> S.I. 1974/2211; the relevant amending instruments are S.I. 1986/2062, 1990/2371, 1993/1813 and 1994/1405.

<sup>(17)</sup> S.I. 1978/20.

<sup>(18)</sup> S.I. 1978/1039 (N.I. 9).

<sup>(19)</sup> S.I. 1979/29.

### **Medicines (Contact Lens Fluid and Other Substances) (Exemptions from Licences) Order 1979**

**21.** In article 1(2) of the Medicines (Contact Lens Fluid and Other Substances) (Exemptions from Licences) Order 1979(20) (interpretation), at the appropriate place insert—

““doctor” means a registered medical practitioner;”.

### **Pension Appeals Tribunals (England and Wales) Rules 1980**

**22.** In rule 12 of the Pension Appeals Tribunals (England and Wales) Rules 1980(21) (evidence), in paragraphs (1) and (2), for “doctor”, wherever it appears, substitute “registered medical practitioner”.

### **Public Lending Right Scheme 1982 (Commencement) Order 1982**

**23.** In the Appendix to the Public Lending Right Scheme 1982 (Commencement) Order 1982(22), both in Article 14A(c)(ii) (forms of application in respect of posthumously eligible books) and in paragraph 5 of Part I of Schedule 1 (application for first registration), for “doctor” substitute “registered medical practitioner, who need not hold a licence to practise,” .

### **Nursing Homes and Mental Nursing Homes Regulations 1984**

**24.** In regulation 2(1) of the Nursing Homes and Mental Nursing Homes Regulations 1984(23) (interpretation), in the definition of “medical practitioner”, after “Medical Act 1983” insert “who holds a licence to practise”.

### **Dental Auxiliaries Regulations 1986**

**25.—**(1) In regulation 5(c) of the Dental Auxiliaries Regulations 1986(24) (the rolls and enrolment), after “practitioner” insert “who need not hold a licence to practise”.

(2) In regulation 18(2) of the Dental Auxiliaries Regulations 1986 (restoration after erasure for misconduct), after “practitioners” insert “who need not hold licences to practise”.

### **Sight Testing (Examination and Prescription)(No. 2) Regulations 1989**

**26.** In regulation 2(1) of the Sight Testing (Examination and Prescription)(No. 2) Regulations 1989(25) (interpretation), in the definition of “doctor”, after “Medical Act 1983” insert “who holds a licence to practise”.

### **Abortion (Scotland) Regulations 1991**

**27.** In regulation 5 of the Abortion (Scotland) Regulations 1991(26) (restriction on disclosure of information), in paragraph (h), for “there has been serious professional misconduct by a practitioner” substitute “the fitness to practise of the practitioner is impaired”.

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(20) S.I. 1979/1585; the relevant amending instrument is S.I. 1979/1745.

(21) S.I. 1980/1120.

(22) S.I. 1982/719; the relevant amending instrument is 1999/1042.

(23) S.I. 1984/1578; the relevant amending instruments are S.I. 1991/2532 and 2002/324. Regulation 2 was modified by S.I. 1996/971.

(24) S.I. 1986/887.

(25) S.I. 1989/1230.

(26) S.I. 1991/460.

**Abortion Regulations 1991**

**28.** In regulation 5 of the Abortion Regulations 1991(**27**) (restriction on disclosure of information), in paragraph (h), for “there has been serious professional misconduct by a practitioner” substitute “the fitness to practise of the practitioner is impaired”.

**National Health Service (Service Committees and Tribunal) (Scotland) Regulations 1992**

**29.** In regulation 1(2) of the National Health Service (Service Committees and Tribunal) (Scotland) Regulations 1992(**28**) (interpretation), in the definition of “doctor”, after “fully registered medical practitioner” insert “who holds a licence to practise”.

**National Health Service (General Medical Services) Regulations 1992**

**30.**—(1) In regulation 2(1) of the National Health Service (General Medical Services) Regulations 1992(**29**) (interpretation)—

- (a) in the definition of “medical register” for “section 34” substitute “section 2”;
- (b) the definitions of “Preliminary Proceedings Committee” and “Professional Conduct Committee” shall be omitted; and
- (c) in the appropriate places there shall be inserted ““Fitness to Practise Panel” means a Fitness to Practise Panel referred to in section 1(3) of the Medical Act 1983;” and ““Investigation Committee” means the Investigation Committee of the General Medical Council referred to in section 1(3) of the Medical Act 1983;”.

(2) In regulation 7 of the National Health Service (General Medical Services) Regulations 1992 (removal from the medical list)—

- (a) in paragraph (1) for sub-paragraph (c) substitute—

“(c) is the subject of a direction given by a Fitness to Practise Panel under section 35D of the Medical Act 1983 (impairment of fitness to practise) that his name be erased or that his registration in the register be suspended following a finding by that Panel that his fitness to practise was impaired by reason of misconduct, conviction or determination, or of an order made by that Panel under section 38(1) of that Act (order for immediate suspension or immediate conditional registration after a finding of impairment of fitness to practise);”;

- (b) in paragraph (3) for sub-paragraph (a) substitute—

“(a) any period during which the doctor provided no general medical services by reason only that his registration as a medical practitioner was suspended under section 35D of the Medical Act 1983 by a Fitness to Practise Panel following a finding by that Panel that his fitness to practise was impaired by reason of his physical or mental health or by interim order under section 41A of the Medical Act 1983 (interim orders);”.

(3) In regulation 18E(2) of the National Health Service (General Medical Services) Regulations 1992(**30**) (criteria for approval and nomination) for sub-paragraph (b) substitute—

- “(b) that his entry in the Medical Register is subject to conditions imposed pursuant to section 35D (impairment of fitness to practice) or section 41A (interim orders) of the Medical Act 1983.”.

(27) S.I. 1991/499; the relevant amending instrument is S.I. 2002/887.

(28) S.I. 1992/434.

(29) S.I. 1992/635; the relevant amending instruments are S.I. 1995/3093, 1996/702, 1997/2468, 1998/682 and 2838, 1999/326, 2000/220 and 1707, 2001/3742, and 2002/554, 881, 916 and 1920.

(30) Regulation 18E was inserted by S.I. 1998/2838.



(4) In Schedule 2 of the National Health Service (General Medical Services) Regulations 1992 (terms of service for doctors) in paragraph 18A (out of hours arrangements), in sub-paragraph (7) (h), for (ii), substitute—

“(ii) he has been notified under section 35C(5) of the Medical Act 1983 that the Investigation Committee of the General Medical Council has decided that a case of which he is the subject should be referred to a Fitness to Practise Panel.”.

(5) In Part III of Schedule 3 of the National Health Service (General Medical Services) Regulations 1992 (information and undertakings to be given etc.), in paragraph 6 at the end insert “who holds a licence to practise”.

### **National Health Service (Pharmaceutical Services) Regulations 1992**

**31.** In regulation 2(1) of the National Health Service (Pharmaceutical Services) Regulations 1992(31) (interpretation), in the definition of “doctor”, after “means a” insert “registered”.

### **National Health Service (Pharmaceutical Services) (Scotland) Regulations 1995**

**32.** In regulation 2(1) of the National Health Service (Pharmaceutical Services) (Scotland) Regulations 1995(32) (interpretation), in the definition of “doctor”, after “fully registered medical practitioner” insert “who holds a licence to practise”.

### **National Health Service (General Medical Services) (Scotland) Regulations 1995**

**33.—**(1) In regulation 7A of the National Health Service (General Medical Services) (Scotland) Regulations 1995(33) (removal from the medical list where a doctor has died etc.), for paragraph (c) substitute—

“(c) is the subject of a direction given by a Fitness to Practise Panel under section 35D of the Medical Act 1983 (impairment of fitness to practise) that his name be erased or that his registration in the register be suspended following a finding by that Panel that his fitness to practise was impaired by reason of misconduct, conviction or determination, or of an order made by that Panel under section 38(1) of that Act (order for immediate suspension or immediate conditional registration after a finding of impairment of fitness to practise);”.

(2) In paragraph 17A(h) of Schedule 1 to the National Health Service (General Medical Services) (Scotland) Regulations 1995 (out of hours arrangements), for head (ii) substitute—

“(ii) he has been notified under section 35C(5) of the Medical Act 1983 that the Investigation Committee of the General Medical Council has decided that he should be referred to a Fitness to Practise Panel.”.

### **Children (Northern Ireland) Order 1995**

**34.** In Article 2(2) of the Children (Northern Ireland) Order 1995(34) (interpretation), in the definition of “medical practitioner” after “Medical Act 1983” insert “who holds a licence to practise”.

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(31) S.I. 1992/662; the relevant amending instruments are S.I. 1994/2402, 1996/698, 1998/681 and 224, 1999/696, 2000/121 and 593, 2001/1396 and 2888, and 2002/551 and 2016.

(32) S.I. 1995/414.

(33) S.I. 1995/416; the relevant amending instruments are S.I. 1996/842 and 2000/28.

(34) S.I. 1995/755 (N.I. 2).

### **Merchant Shipping (Ships' Doctors) Regulations 1995**

**35.** In regulation 2 of the Merchant Shipping (Ships' Doctors) Regulations 1995<sup>(35)</sup> (interpretation), in the definition of “qualified doctor” at the end add “who holds a licence to practise”.

### **Cosmetic Products (Safety) Regulations 1996**

**36.** In regulation 8 of the Cosmetic Products (Safety) Regulations 1996<sup>(36)</sup> (product information), in paragraph (3)(b), after “fully registered medical practitioner” insert “and holds a licence to practise”.

### **The Adoption Agencies (Scotland) Regulations 1996**

**37.** In the Adoption Agencies (Scotland) Regulations 1996<sup>(37)</sup>—

- (a) in regulation 8(b) (duties of adoption agencies in making arrangements for freeing for adoption), after “fully registered practitioner” insert “who holds a licence to practise”;
- (b) in regulation 9 (duties of adoption agencies in making arrangements after adoption), after “fully registered practitioner” insert “who holds a licence to practise”;
- (c) in paragraph 17 of Part I of Schedule 2 (particulars relating to the child), after “fully registered medical practitioner” insert “who holds a licence to practise”;
- (d) in paragraph 15 of Part II of Schedule 2 (particulars relating to each parent, including where appropriate, a father or mother who does not have parental responsibilities or rights in relation to the child), after “fully registered medical practitioner” insert “who holds a licence to practise”; and
- (e) in paragraph 25 of Part IV of Schedule 2 (particulars relating to each prospective adopter), after “fully registered medical practitioner” insert “who holds a licence to practise”.

### **Reserve Forces (Call-out and Recall) (Exemptions Etc.) Regulations 1997**

**38.** In regulation 2(1) of the Reserve Forces (Call-out and Recall) (Exemptions Etc.) Regulations 1997<sup>(38)</sup> (interpretation), insert at the appropriate place—

““doctor” means a registered medical practitioner;”.

### **National Health Service (Vocational Training for General Medical Practice) (Scotland) Regulations 1998**

**39.** In regulation 2(1) of the National Health Service (Vocational Training for General Medical Practice) (Scotland) Regulations 1998<sup>(39)</sup> (interpretation), in the definition of “practitioner”, after “fully registered medical practitioner” insert “who holds a licence to practise”.

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<sup>(35)</sup> S.I. 1995/1803.

<sup>(36)</sup> S.I. 1996/2925; the relevant amending instrument is S.I. 1997/2914.

<sup>(37)</sup> S.I. 1996/3266.

<sup>(38)</sup> S.I. 1997/307.

<sup>(39)</sup> S.I. 1998/5.

### **Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Employment of Young Persons) Regulations 1998**

**40.** In regulation 8(1) of the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Employment of Young Persons) Regulations 1998(**40**) (young persons' medical certificates), after “Medical Act 1983” insert “who holds a licence to practise”.

### **National Health Service (Choice of Medical Practitioner) (Scotland) Regulations 1998**

**41.** In regulation 1(2) of the National Health Service (Choice of Medical Practitioner) (Scotland) Regulations 1998(**41**) (interpretation), in the definition of “doctor”, after “fully registered medical practitioner” insert “who holds a licence to practise”.

### **Prison Rules 1999**

**42.** In rule 20(3) of the Prison Rules 1999(**42**) (medical attendance), after “Medical Act 1983” insert “who holds a licence to practise”.

### **Scotland Act 1998 (Transitory and Transitional Provisions) (Publication and Interpretation etc. of Acts of the Scottish Parliament) Order 1999**

**43.** In Schedule 2 to the Scotland Act 1998 (Transitory and Transitional Provisions) (Publication and Interpretation etc. of Acts of the Scottish Parliament) Order 1999(**43**) (general definitions) for the definition of “registered medical practitioner” substitute—

““registered medical practitioner” means a fully registered person within the meaning of the Medical Act 1983 who holds a licence to practise under that Act;”.

### **Medical Act 1983 (Amendment) Order 2000**

**44.** Articles 3 to 14, 15(a) to (e) and 16 of the Medical Act 1983 (Amendment) Order 2000(**44**) are hereby revoked.

### **Young Offender Institution Rules 2000**

**45.** In rule 27(3) of the Young Offender Institution Rules 2000(**45**) (medical attendance), after “Medical Act 1983” insert “who holds a licence to practise”.

### **National Health Service (Personal Medical Services) (Scotland) Regulations 2001**

**46.** In regulation 7(2) of the National Health Service (Personal Medical Services) (Scotland) Regulations 2001(**46**) (performance of personal medical services by medical practitioners), for subparagraph (e) substitute—

“(e) is the subject of a direction given by a Fitness to Practise Panel under section 35D of the Medical Act 1983 (impairment of fitness to practise) that his name be erased or that his registration in the register be suspended following a finding by that Panel that his fitness to practise was impaired by reason of misconduct, conviction or determination, or of an order made by that Panel under section 38(1) of that Act

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(40) S.I. [1998/2411](#).

(41) S.I. [1998/659](#).

(42) S.I. [1999/728](#).

(43) S.I. [1999/1379](#); the relevant amending instrument is S.I. [2002/881](#).

(44) S.I. [2000/1803](#).

(45) S.I. [2000/3371](#).

(46) S.I. [2001/72](#).

(order for immediate suspension or immediate conditional registration after a finding of impairment of fitness to practise);”.

### **Detention Centre Rules 2001**

**47.** In rule 33(1) of the Detention Centre Rules 2001(**47**) (medical practitioner and health care team), after “Medical Act 1983” add “who holds a licence to practise”.

### **Life Sentences Review (Northern Ireland) Order 2001**

**48.** In Article 3(6) of the Life Sentences Review (Northern Ireland) Order 2001(**48**) (Life Sentence Review Commissioners) after “Medical Act 1983” add “who holds a licence to practise”.

### **Education (Special Educational Needs) (England) (Consolidation) Regulations 2001**

**49.** In regulation 9 of the Education (Special Educational Needs) (England) (Consolidation) Regulations 2001(**49**) (medical advice) at the end add “who holds a licence to practise”.

### **National Health Service (General Medical Services Supplementary List) Regulations 2001**

**50.**—(1) In regulation 4 of the National Health Service (General Medical Services Supplementary List) Regulations 2001(**50**) (application for inclusion in the supplementary list), in paragraph (2)(f) after “in the Medical Register” add “who holds a licence to practise”.

(2) In regulation 6(1) of the National Health Service (General Medical Services Supplementary List) Regulations 2001 (grounds for refusal) for sub-paragraph (f) substitute—

“(f) where his registration in the register of medical practitioners is subject to conditions imposed pursuant to section 35D (impairment of fitness to practise) or section 41A (interim orders) of the Medical Act 1983.”.

(3) In regulation 10 of the National Health Service (General Medical Services Supplementary List) Regulations 2001 (removal from supplementary list)—

(a) in paragraph (1) for sub-paragraph (f) substitute—

“(f) he is the subject of a direction given by a Fitness to Practise Panel under section 35D of the Medical Act 1983 (impairment of fitness to practise) that his name be erased or that his registration in the register be suspended following a finding by that Panel that his fitness to practise was impaired by reason of misconduct, conviction or determination, or of an order made by that Panel under section 38(1) of that Act (order for immediate suspension or immediate conditional registration after a finding of impairment of fitness to practise);”;

(b) in paragraph (8), for sub-paragraph (a) substitute—

“(a) during which his registration as a medical practitioner was suspended under section 35D of the Medical Act 1983 by a Fitness to Practise Panel following a finding by that Panel that his fitness to practise was impaired by reason of his physical or mental health or by interim order under section 41A of the Medical Act 1983 (interim orders);”.

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(47) S.I. 2001/238.

(48) S.I. 2001/2564 (N.I. 2).

(49) S.I. 2001/3455.

(50) S.I. 2001/3740; the relevant amending instrument is S.I. 2002/848.

### **Education (Special Educational Needs) (Wales) Regulations 2002 (Rheoliadau Addysg (Anghenion Addysgol Arbennig) (Cymru) 2002)**

**51.**—(1) In regulation 9 of the Education (Special Educational Needs) (Wales) Regulations 2002(**51**) (medical advice), at the end add “who holds a licence to practise”.

(2) Yn rheoliad 9 o Reoliadau Addysg (Anghenion Addysgol Arbennig) (Cymru) 2002 (cyngor meddygol), rhowch ar y diwedd y geiriau “ac sy'n dal trwydded i ymarfer”.

### **National Health Service (General Medical Services Supplementary List) (Wales) Regulations 2002 (Rheoliadau'r Gwasanaeth Iechyd Gwladol (Rhestr Atodol Gwasanaethau Meddygol Cyffredinol) (Cymru) 2002)**

**52.**—(1) In regulation 4 of the National Health Service (General Medical Services Supplementary List) (Wales) Regulations 2002(**52**) (application for inclusion in the supplementary list), in paragraph (2)(f) after “in the Medical Register” add “who holds a licence to practise”.

(2) In regulation 6(1) of the National Health Service (General Medical Services Supplementary List) (Wales) Regulations 2002 (grounds for refusal) for sub-paragraph (f) substitute—

“(f) where his registration in the register of medical practitioners is subject to conditions imposed pursuant to section 35D (impairment of fitness to practise) or section 41A (interim orders) of the Medical Act 1983.”.

(3) In regulation 10 of the National Health Service (General Medical Services Supplementary List) (Wales) Regulations 2002 (removal from supplementary list)—

(a) for sub-paragraph (1)(f) substitute—

“(f) he is the subject of—

(i) a direction given by a Fitness to Practise Panel under section 35D of the Medical Act 1983 (impairment of fitness to practise) that his name be erased or that his registration in the register be suspended following a finding that his fitness to practise was impaired by reason of misconduct, conviction or determination, or

(ii) an order made by that Panel under section 38(1) of that Act (order for immediate suspension);”;

(b) for sub-paragraph 10(8)(a) substitute—

“(a) during which his registration as a medical practitioner was suspended under section 35D of the Medical Act 1983 by a Fitness to Practise Panel following a finding by that Panel that his fitness to practise was impaired by reason of his physical or mental health or by interim order under section 41A of the Medical Act 1983 (interim orders);”.

(4) Yn rheoliad 4 o Reoliadau'r Gwasanaeth Iechyd Gwladol (Rhestr Atodol Gwasanaethau Meddygol Cyffredinol) (Cymru) 2002, (cais i gynnwys enw ar y rhestr atodol), ym mharagraff 2(dd) ar ô 244 l y geiriau “Gofrestr Feddygol” rhowch y geiriau “ac sy'n dal trwydded i ymarfer”.

(5) Yn rheoliad 6 o Reoliadau'r Gwasanaeth Iechyd Gwladol (Rhestr Atodol Gwasanaethau Meddygol Cyffredinol) (Cymru) 2002 (rhesymau dros wrthod) yn lle is-baragraff (1)(dd) rhowch—

“(dd) os yw cofrestriad y meddyg yn y gofrestr o ymarferwyr cyffredinol yn ddarostyngedig i amodau a osodwyd yn unol ag adran 35D (amhariad ar ffitrwydd i ymarfer) neu adran 41A (gorchmynion interim) o Ddeddf Feddygol 1983;”.

(6) Yn rheoliad 10 (tynnu oddi ar restr atodol)—

(51) S.I. 2002/152 (W. 20) (O.S. 2002/152 (Cy. 20).

(52) S.I. 2002/1882 (W. 191) (O.S. 2002/1882 (Cy. 191).

*Status: This is the original version (as it was originally made).*

- (a) yn lle is-baragraff (1)(dd) rhowch—
  - “(dd) bod y meddyg yn destun
    - (i) cyfarwyddyd a roddwyd gan Banel Ffitrwydd i Ymarfer o dan adran 35D o Ddeddf Feddygol 1983 (amhariad ar ffitrwydd i ymarfer) i ddileu ei enw neu atal dros dro ei gofrestrriad yn y gofrestr, yn dilyn dyfarniad bod camymddygiad, collfarniad neu benderfyniad wedi amharu ar ei ffitrwydd i ymarfer, neu
    - (ii) gorchymyn a wnaed gan y Panel hwnnw o dan adran 38(1) o'r Ddeddf honno (gorchymyn i atal dros dro ar unwaith);”;
- (b) yn lle is-baragraff 10(8)(a) rhowch—
  - “(a) pan atalwyd dros dro gofrestrriad y meddyg fel ymarferydd cyffredinol o dan adran 35D o Ddeddf Feddygol 1983 gan Banel Ffitrwydd i Ymarfer yn dilyn dyfarniad gan y Panel hwnnw bod ei iechyd corfforol neu feddyliol wedi amharu ar ei ffitrwydd i ymarfer neu drwy orchymyn interim o dan adran 41A o Ddeddf Feddygol 1983 (gorchmynion interim);”.

## SCHEDULE 2

Article 16(2)

### TRANSITIONAL PROVISIONS

#### *Interpretation*

1. In this Schedule—
  - (a) a reference to an old section of or paragraph in the Act shall be construed as a reference to that provision as it had effect prior to its amendment or substitution by this Order and a reference to a new section of or new paragraph in the Act shall be construed as a reference to that provision as amended or substituted or re-enacted (with or without modification) by this Order; and
  - (b) “enactment” includes—
    - (i) an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament, and
    - (ii) any provision of, or any instrument made under, Northern Ireland legislation.

#### *Registration*

2.—(1) A person who, before 31st October 2003, is awarded a recognised overseas qualification which under the old section 19 of the Act would entitle him to be—

- (a) fully registered under that section; or
- (b) provisionally registered under the old section 21 of the Act and, on satisfying the requirements under the old section 20(2)(a) of the Act as to experience, to be fully registered under the old section 19 of the Act,

shall if he applies or has applied to the Registrar in accordance with sub-paragraph (2) or (3) below be eligible for full registration or provisional registration and subsequently full registration under the old section 19 or, as the case may be, the old section 21, as if they were still in force.

(2) An application for full registration under the old section 19 of the Act shall (except where sub-paragraph (3) applies) be made not later than 31st December 2003.

(3) An application for provisional registration under the old section 21 of the Act shall be made not later than 31st December 2003 and subsequent to that application an application for full registration may be made at any time.

(4) In this paragraph, “recognised overseas qualification” has the meaning given in the old section 19 of the Act.

3.—(1) In relation to applications under the old sections 19 and 21 of the Act—

- (a) the General Council may continue to provide facilities for testing the knowledge of English of an applicant; and
- (b) the old section 30(1) and the new section 30(1) of the Act shall apply as if the reference in paragraph (a) to section 19 or 21 included a reference to the old section 19 or 21 of the Act.

(2) Until article 6(11) of this Order comes into force—

(a) for section 28(2)(b) there shall be substituted—

- “(b) such number of other persons (who may, but need not, be members of the General Council) as the Council may by rules prescribe and including at least—
  - (i) one person who is neither registered with the General Council nor a holder of any qualification registrable under this Act, and
  - (ii) one person who is or has been registered under Part III of the Medical Act 1956, under section 18 or 22 of the Medical Act 1978 or under section 19, 21A, 22 or 25 of this Act.”; and

(b) the old section 29 of the Act shall be amended as follows—

- “(i) in subsection (2)(c) for the words from “by virtue of section 25” to “section 19 above” substitute “under section 25 above that he be registered under that section”, and
- (ii) in subsection (3)—
  - (aa) in paragraph (a) for “section 20” substitute “section 19(1)(b)”,
  - (bb) omit paragraph (b), and
  - (cc) in paragraph (c) omit “(a), (b),”.

(3) Notwithstanding the changes to the Review Board as a result of the coming into force of sub-paragraph (2)(a) above, the new Review Board resulting from those changes shall complete any case that is being considered but has not been completed by the old Review Board before the coming into force of that sub-paragraph.

(4) Any application that is being considered by the Review Board on the date of the coming into force of article 6(11) of this Order shall be dealt with by the Review Board in accordance with the General Medical Council (Review Board for Overseas Qualified Practitioners Rules) Order of Council 1979(53), unless the person whose application is being considered requests that the application be transferred to a Registration Appeals Panel.

(5) If, at the date of the coming into force of article 6(11) of this Order—

- (a) a decision falling within section 29(2) of the Act has been made but an application to the Review Board under section 29(1) of the Act has not been made and the period for making such an application has not expired, if any such application is made it shall be considered by a Registration Appeals Panel; or
- (b) any application under section 29(1) has been made but the Review Board has not started to consider it, that case shall be considered instead by a Registration Appeals Panel.

*Status: This is the original version (as it was originally made).*

(6) After the coming into force of article 6(11) of this Order, if a person makes an application for full registration under the old section 19 of the Act in accordance with paragraph 2(3) above, having previously been provisionally registered under the old section 21 of the Act, any decision not to direct that he shall be registered shall be an appealable registration decision for the purposes of Schedule 3A to the Act.

4. All entries in the overseas list immediately prior to the coming into force of article 9(1) of this Order shall be transferred to the principal list.

5.—(1) Any person who is fully registered or provisionally registered pursuant to the old section 19 or 21 of the Act after the coming into force of article 9(1) of this Order shall be entitled to be included in the principal list.

(2) If a person is successful in an appeal against a decision taken to erase his name from the overseas list before the coming into force of article 9(1) of this Order, the committee may, if they think fit, direct that he be included in the principal list.

#### *Fitness to practise*

6. Except as provided for in paragraphs 7 and 8 below, any allegation that has been made to the General Council concerning a medical practitioner's professional conduct, professional performance or fitness to practise prior to the coming into force of the new section 35C of this Act that has not been referred to the Professional Conduct Committee, the Committee on Professional Performance or the Health Committee shall be dealt with by the Investigation Committee in accordance with new section 35C of the Act.

7. Any case that has been referred to and is being considered by the Preliminary Proceedings Committee at the date of the coming into force of the new section 35C of this Act shall be dealt with by that Committee in accordance with old section 42 of, and old Schedule 4 to, the Act (including rules made under that Schedule), and—

- (a) if the Committee decides to refer the case for inquiry, it shall be dealt with by a Fitness to Practise Panel; and
- (b) the matter shall thereafter be disposed of by that Panel in accordance with paragraph 10 below.

8.—(1) Any case that has been referred to and is being considered by the Assessment Referral Committee on the date of the coming into force of the new section 35C of the Act shall be dealt with by that Committee in accordance with the rules made under the old paragraph 5A of Schedule 4 to the Act, and if the Committee decide that an assessment needs to be carried out, the matter shall be referred to the Investigation Committee to be dealt with in accordance with the new section 35C of the Act.

(2) Any case that has been referred to but has not yet been considered by the Assessment Referral Committee on the date of the coming into force of the new section 35C of the Act shall be dealt with by a Fitness to Practise Panel in accordance with the rules made under the old paragraph 5A of Schedule 4 to the Act, and if the Panel decide that an assessment needs to be carried out, the matter shall be dealt with thereafter by that Panel in accordance with the rules made under the new paragraph 5A of Schedule 4 to the Act.

9. Any reference in any enactment or instrument to a notification under the new section 35C(5) of the Act of a decision of the Investigation Committee to refer a case to a Fitness to Practise Panel shall be construed as including a reference to a notification under the old section 42(3) of the Act of a decision by the Preliminary Proceedings Committee to refer a practitioner to the Professional Conduct Committee or the Health Committee.



**10.** Any case which—

- (a) has been referred to the Professional Conduct Committee, the Health Committee or the Committee on Professional Performance but which has not been disposed of on the date of the coming into force of the new section 35D of the Act; or
- (b) is referred to a Fitness to Practise Panel after the coming into force of the new section 35D of the Act in accordance with paragraph 7 above,

shall be disposed of by a Fitness to Practise Panel either in accordance with the old sections 36 to 38 of, and the old Schedule 4 to, the Act (including rules made under that Schedule) or in accordance with the rules made under the old paragraph 5A of Schedule 4 to the Act.

**11.** Any reference in any enactment (including an enactment comprised in the Act) or instrument to a direction given by a Fitness to Practise Panel shall be construed as including a reference to a corresponding direction made by—

- (a) the Professional Conduct Committee under the old section 36 or 38 of the Act;
- (b) the Health Committee under the old section 37 or 38 of the Act;
- (c) the Committee on Professional Performance under the old section 36A or 38 of, or under rules made under the old paragraph 5A of Schedule 4 to, the Act; or
- (d) a Fitness to Practise Panel under either the old sections 36 to 38 of, and the old Schedule 4 to, the Act (including rules made under that Schedule) or in accordance with the rules made under the old paragraph 5A of Schedule 4 to the Act.

**12.** An appeal which relates to a direction or order—

- (a) made under the old sections 36 to 37, 39, 41, 44 or 45 of the Act; or
- (b) which was an appealable decision for the purposes of the old section 40 of the Act,

shall be dealt with in accordance with old section 40 of the Act, except as provided in paragraph 13 below.

**13.** Where any case would have been remitted under the old section 40(7) of the Act to the Professional Conduct Committee, the Health Committee or the Committee on Professional Performance, that case shall be remitted instead to the Registrar for him to refer it to a Fitness to Practise Panel to be dealt with under the old sections 36 to 38 of, and the old Schedule 4 to, the Act (including rules made under that Schedule) or in accordance with the rules made under the old paragraph 5A of Schedule 4 to the Act.

**14.—(1)** An application to the court under the old section 38 of the Act shall be dealt with in accordance with the old section 38 of the Act.

(2) An appeal from any direction of the Committee on Professional Performance given by virtue of the old paragraph 5A(3) of Schedule 4 to the Act shall lie to the court and shall be dealt with in accordance with the old paragraph 5A(4) of Schedule 4 to the Act.

**15.** Where, prior to the coming into force of the new section 35D of the Act—

- (a) a medical practitioner has agreed to an assessment of his professional performance under rules made under the old paragraph 5A of Schedule 4 to the Act; or
- (b) an assessment of a medical practitioner has to be carried out by virtue of a direction given in rules made under the old paragraph 5A of Schedule 4 to the Act,

a Fitness to Practise Panel may not direct in any proceedings relating to that assessment that his name shall be erased under the new section 35D(2) of the Act.

*Status: This is the original version (as it was originally made).*

**16.** In relation to any application under the old section 41 of the Act that has not been determined by the Professional Conduct Committee on the coming into force of article 6(2) of this Order relating to a person—

- (a) who was provisionally registered under the old section 21 but;
- (b) to whom the new section 19(2) does not apply,

the Professional Conduct Committee shall not direct that his name be restored by way of provisional registration under the new section 21 of the Act, but may instead direct that he be registered with limited registration under the new section 22 of the Act.

**17.** Any application under the old section 41 of the Act that has not been determined by the Professional Conduct Committee on the date of the coming into force of the new section 41 of the Act (whether or not it is brought fully into force) shall be disposed of by a Fitness to Practise Panel in accordance with the old section 41 of, and the old Schedule 4 to, the Act (including any rules made under that Schedule), but if the application relates to a person—

- (a) who was provisionally registered under the old section 21 but;
- (b) but to whom the new section 19(2) does not apply,

a Fitness to Practise Panel shall not direct that his name be restored by way of provisional registration under the new section 21 of the Act, but may instead direct that he be registered with limited registration under the new section 22 of the Act.

**18.** In relation to any application under the new section 41 of the Act relating to a person—

- (a) who was provisionally registered under the old section 21 but;
- (b) to whom the new section 19(2) does not apply,

a Fitness to Practise Panel shall not direct that his name be restored by way of provisional registration under the new section 21 of the Act, but may instead direct that he be registered with limited registration under the new section 22 of the Act.

**19.** Any application under the new section 41 of the Act that has not been determined by a Fitness to Practise Panel on the date of the coming into force of the new section 41(7) of the Act shall be disposed of as if that provision were not in force.

**20.** Any case that is pending before the Interim Orders Committee under the old section 41A(1) or (2) of the Act on the date of the coming into force of the new section 41A of the Act shall be disposed of by an Interim Orders Panel or a Fitness to Practise Panel in accordance with the new section 41A of, and the new Schedule 4 to, the Act (including rules made under that Schedule).

**21.** Any case that is pending before the Interim Orders Committee, the Professional Conduct Committee, the Health Committee or the Committee on Professional Performance under the old section 41A(3) of the Act on the date of the coming into force of the new section 41A of the Act shall be disposed of by an Interim Orders Panel or a Fitness to Practise Panel in accordance with the new section 41A(3) of, and the new Schedule 4 to, the Act (including rules made under that Schedule).

**22.** Any application that is pending before the court under the old section 41A(6) of the Act before the date of the coming into force of the new section 41A of the Act shall be disposed of in accordance with the old section 41A of, and the old Schedule 4 to, the Act (including rules made under that Schedule).

**23.** Where, prior to the coming into force of the new section 41A of the Act, the Professional Conduct Committee, the Health Committee or the Committee on Professional Performance has made an order under the old section 41A(3)(c) or (d) of the Act, a Fitness to Practise Panel may in accordance with the old section 41B of, and the old Schedule 4 to, the Act (including rules made under that Schedule) do any of the things mentioned in old section 41B(2), read with the old section 41B(3), of the Act.

**24.** Any reference in any enactment (including an enactment comprised in the Act) or instrument to an order made by a Fitness to Practise Panel or an Interim Orders Panel under the new section 41A or 41B of the Act shall be construed as including a reference to an order made under the old section 41A or 41B of the Act by the Interim Orders Committee, the Professional Conduct Committee, the Health Committee or the Committee on Professional Performance or an order made by a Fitness to Practise Panel by virtue of paragraph 23 of this Schedule.

**25.** Any case that is pending before the Professional Conduct Committee under the old section 44(5) of the Act on the date of the coming into force of the new section 44 of the Act shall be disposed of by a Fitness to Practise Panel in accordance with the new section 44(5) of the Act.

**26.** Any case that is pending before the Professional Conduct Committee under the old section 45 of the Act on the date of the coming into force of the new section 45 of the Act shall be disposed of by a Fitness to Practise Panel in accordance with the new section 45 of the Act.

**27.** Any reference in the new section 45(1) of the Act to a finding of a Fitness to Practise Panel shall be construed as including a reference to a finding of a kind referred to in the old section 45(1) (a) or (b) of the Act by the Professional Conduct Committee.

**28.** The references in the new section 45(3) and (4) of the Act to a prohibition order under the new section 45 of the Act shall be construed as including a reference to a prohibition order imposed under the old section 45(1) of the Act.

**29.** For the purposes of the new section 45(6) of the Act, applications made under the old section 45 of the Act for termination of a prohibition order shall be treated as if made under the new section 45 of the Act.

**30.** For the purposes of the new section 45(8) of the Act, a direction under the new section 45(6) of the Act shall be construed as including a reference to a direction made under the old section 45(6) of the Act.

#### *Miscellaneous*

**31.** A person shall be entitled to recover any charge under the new section 46(1) of the Act notwithstanding that he does not hold a licence to practise if the charge relates to a matter which took place before the commencement of article 12(4) of this Order, and for these purposes the new section 46(3) of the Act shall apply as if the words “and holds a licence to practise” were omitted.

**32.** A certificate signed by a person who is fully registered but who does not hold a licence to practise shall be valid notwithstanding the new section 48 of the Act if the certificate was signed before the commencement of article 12(6) of this Order.

**33.** The new section 53(2) of the Act shall apply to an order of the Professional Conduct Committee, the Committee on Professional Performance or the Health Committee under the old section 38 of the Act.

**34.** Subject to paragraph 35, where—

- (a) proceedings are pending before the Committee on Professional Performance; or
- (b) an appeal against a direction of that Committee is pending,

on the date of the commencement of article 15(6)(c) of this Order in so far as it relates to the definition of “professional performance”, the Committee or the court shall dispose of the proceedings as if that provision, in so far as it relates to the definition of “professional performance”, were not in force.

**35.** An assessment carried out by virtue of the old paragraph 5A of Schedule 4 to the Act after the coming into force of article 15(6)(c) of this Order in so far as it relates to the definition of “professional performance” may include—

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- (a) an assessment of a registered person’s professional performance at any time prior to the assessment; and
- (b) an assessment of the standard of his professional performance at the time of the assessment.

**36.** In any case where, as a result of the provisions of this Schedule, a direction or order has been made under the old sections 36 to 39, 41, 44 or 45 of the Act, any further consideration of that case otherwise than by way of an appeal shall be dealt with as if the order or direction had been made under the corresponding new sections of the Act.

**37.** Until the coming into force of the new section 44A(3) of the Act, if registration is refused or if a person’s name is removed from the register in accordance with subsection (1) or (2) of that section—

- (a) the Registrar shall serve notification of the refusal or removal on that person;
- (b) the Registrar shall, on request, state in writing the reasons for the refusal or removal;
- (c) the person may appeal by giving notice to the General Council; and
- (d) any such appeal shall be determined by the General Council or, if the Council have delegated their functions under this paragraph to a committee, by that committee,

and the old paragraph 8 of Schedule 4 to the Act or the new paragraph 8 of Schedule 4 to the Act shall apply to any notification served under sub-paragraph (a) above.

**38.** The first Regulations made under new section 29A of the Act shall provide, except in prescribed cases or circumstances, that persons who on the date on which any provision of those regulations comes into force are registered under the Act with full or limited registration, shall be granted a licence to practise.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Medical Act 1983 (“the Act”).

This Order is made under sections 60 and 62(4) of the Health Act 1999. Under paragraph 9(1) of Schedule 3 to the Health Act 1999, the Secretary of State published a draft of the Order and invited representations to be made on it. A copy of the report about the consultation is available from the Department of Health’s website ([www.doh.gov.uk/gmcreform](http://www.doh.gov.uk/gmcreform)).

Article 3 provides for the main objective of the General Medical Council (“the Council”) in exercising its functions to be the protection, promotion and maintenance of the health and safety of the public.

Article 4 makes various amendments to Schedule 1 to the Act concerning the constitution of the Council and in particular provides for—

- the Council to consist of no more than thirty-five members (article 4(1));
- an electoral scheme to divide any of the constituencies for elected members into two or more constituencies (article 4(3)(a));
- the disclosure of information in an election (article 4(3)(c));

- the limitations on the type of bodies that can be designated as appointing bodies to be removed (article 4(4));
- the members of the Council who are registered medical practitioners also to hold a licence to practise (article 4(3)(b) and (4));
- all the nominated members of the Council to be lay persons (article 4(5));
- the Council to make rules for the suspension or removal from office of members (article 4(6)); and
- the Constitution Order establishing the Council to make provision regarding the filling of casual vacancies amongst the elected members of the Council and for the quorum of the Council (article 4(7) and (8) respectively).

Article 5 provides for the abolition of the Interim Orders Committee, the Preliminary Proceedings Committee, the Professional Conduct Committee, the Assessment Referral Committee, the Committee on Professional Performance and the Health Committee. It provides for the establishment of Interim Orders Panels, Registration Decisions Panels, Registration Appeals Panels, an Investigation Committee and Fitness to Practise Panels as statutory committees of the Council.

Article 6 makes changes to Part III of the Act concerning registration of persons qualifying overseas. In particular—

- section 19 is substituted for a provision limited to EEA nationals and other persons with rights under Community law (article 6(2));
- new section 21A is inserted into the Act which provides for full registration of specialists and general practitioners who have qualifications from outside the United Kingdom (article 6(5));
- section 22 is amended to allow for a wider range of medical appointments to be specified by the Council for the purposes of obtaining limited registration (article 6(6)); and
- sections 28 and 29 are repealed thereby providing for the abolition of the Review Board (article 6(11)).

Article 7 makes changes to Part IV of the Act (general provisions concerning registration). In particular—

- it provides for the register of medical practitioners and register of medical practitioners with limited registration to be published, including electronically (article 7(4)); and
- allows for the Registrar to issue certificates regarding the registration status of a medical practitioner and whether or not a practitioner holds a licence to practise.

Article 8 inserts a new section 34B and Schedule 3A concerning registration appeals. Schedule 3A provides for a right of appeal to a Registration Appeals Panel from decisions made under the sections of the Act specified in paragraph 2(1) of that Schedule (appealable registration decisions). There is a right of appeal from a Registration Appeals Panel to the county court or in Scotland to the sheriff. The Schedule in part implements Directive [2001/19/EC](#) (O.J. No. L 206, 31.7.2001, p.1) which inserts article 42d into Directive [93/16/EEC](#) (O.J. No. L 165, 7.7.1993, p.1). A Transposition Note has been prepared and is to be found on the Department of Health's website at the above address.

Article 9 makes further and supplementary provision to articles 6 to 9. In particular, it abolishes the overseas list.

Article 10 inserts new sections 29A to 29J into the Act.

- new section 29A provides for the Council to make regulations with respect to the grant or refusal to grant or withdrawal of a licence to practise by a licensing authority and for the revalidation of medical practitioners;
- new section 29B makes more detailed provision regarding the power to make regulations under section 29A;

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- new section 29C makes provision for a licensing authority to make a referral to the Investigation Committee where it is concerned about the fitness to practise of a medical practitioner;
- new section 29D provides for regulations under section 29A to make provision for the restoration of a licence to practise;
- new section 29E makes provision about evidence;
- new section 29F provides for an appeal from a decision of a licensing authority to a Registration Appeals Panel. It provides for new Schedule 3B (which is inserted into the Act by article 11 below) to apply to such appeals;
- new section 29G provides for the Council to publish guidance for medical practitioners relating to revalidation and the restoration of a licence to practise;
- new section 29H makes provision regarding notices; and
- new section 29J makes miscellaneous provision.

Article 11 inserts a new Schedule 3B into the Act regarding appeals to a Registration Appeals Panel in respect of a decision to refuse to grant or restore, or to withdraw, a licence to practise. It provides for an appeal from a Registration Appeals Panel to the county court or in Scotland to the sheriff.

Article 12 makes supplementary provision on the introduction of a licence to practise. In particular, it makes it an offence to pretend to hold a licence to practise (article 12(7)).

Article 13 substitutes Part V of the Act (professional conduct and fitness to practise). It provides for the Investigation Committee to investigate allegations that a medical practitioner's fitness to practise is impaired (new section 35C). A Fitness to Practise Panel will be able to make a direction for the erasure, suspension or conditional registration of a medical practitioner whose fitness to practise it finds is impaired (new section 35D). An Investigation Committee or a Fitness to Practise Panel will be able to give a warning to a practitioner regarding his future conduct or performance (new sections 35C(6) and 35D(3) respectively). New sections 35CC and 35E make provision supplementary to new sections 35C and 35D respectively. New section 41C sets out the effect of a direction for erasure or an order for suspension on the holding of a licence to practise. New section 44A provides for the effect on registration of a conviction or disqualification.

Article 14 substitutes Schedule 4 to the Act (proceedings before the Professional Conduct, Health and Preliminary Proceedings Committees) with new provisions relating to the Investigation Committee, Interim Orders Panels and Fitness to Practise Panels.

Article 15 makes miscellaneous amendments to the Act. In particular, it provides for the Council to—

- submit annual reports to the Privy Council (article 15(4));
- co-operate with public authorities and other bodies or persons (article 15(7)); and
- inform medical practitioners and the public about their work and the exercise of their functions (article 15(7)).

Article 16 and Schedules 1 and 2 make consequential, transitional, transitory and savings provisions relating to other provisions in the Order.