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STATUTORY INSTRUMENTS

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**2003 No. 1250**

**HEALTH CARE AND  
ASSOCIATED PROFESSIONS**

**DOCTORS**

**The General and Specialist Medical Practice  
(Education, Training and Qualifications) Order 2003**

*Made - - - - 8th May 2003  
Coming into force in accordance with article 1(2) and  
(3)*

At the Court at Buckingham Palace, the 8th day of May 2003

Present,

The Queen's Most Excellent Majesty in Council

Whereas the Secretary of State and the Scottish Ministers published a draft Order and invited representations as required by paragraph 9(1) and (3) of Schedule 3 to the Health Act 1999<sup>(1)</sup> and the period of three months mentioned in paragraph 9(4) of that Schedule expired before a draft of this Order in Council was laid before Parliament and the Scottish Parliament.

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

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by section 60 and section 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:

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(1) 1999 c. 8.

## **PART 1**

### **GENERAL**

#### **Citation and commencement**

1.—(1) This Order may be cited as the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003.

(2) This article and article 31(1) and (6) shall come into force on the day after this Order is made 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(2).

#### **Interpretation**

2. This Order is to be interpreted in accordance with Schedule 1.

## **PART 2**

### **THE BOARD AND ITS COMMITTEES**

#### **The Postgraduate Medical Education and Training Board and its committees**

3.—(1) There shall be a body corporate to be known as the Postgraduate Medical Education and Training Board (referred to in this Order as “the Board”).

(2) The principal functions of the Board shall be—

- (a) to establish standards of, and requirements relating to, postgraduate medical education and training;
- (b) to secure the maintenance of the standards and requirements established under sub-paragraph (a); and
- (c) to develop and promote postgraduate medical education and training in the United Kingdom.

(3) The Board shall have such other functions as are conferred on it by or under this Order.

(4) The main objectives of the Board in exercising its functions shall be—

- (a) to safeguard the health and well-being of persons using or needing the services of general practitioners or specialists;
- (b) to ensure that the needs of persons undertaking postgraduate medical education and training in each of the countries of the United Kingdom are met by the standards it establishes under paragraph (2)(a) and to have proper regard to the differing considerations applying to the different groups of persons to whom this Order applies; and
- (c) to ensure that the needs of employers and those engaging the services of general practitioners and specialists within the National Health Service are met by the standards it establishes under paragraph (2)(a).

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(2) A table of provisions that have come into force is available from the Department of Health, Room 2N35a, Quarry House, Quarry Hill, Leeds, West Yorkshire LS2 7UE.

- (5) In exercising its functions, the Board shall co-operate wherever reasonably practicable with—
  - (a) the GMC;
  - (b) any body that appears to it to be representative of the medical Royal Colleges in the United Kingdom; and
  - (c) such other bodies as the Secretary of State may specify by order.
- (6) Part 1 of Schedule 2 shall have effect with respect to the constitution of the Board.
- (7) There shall be two committees of the Board, to be known as—
  - (a) the Training Committee; and
  - (b) the Assessment Committee.
- (8) These two committees, and any committee created under paragraph (11)(a), are referred to in this Order as “the statutory committees”.
- (9) Each statutory committee shall have the functions conferred on it by or under this Order.
- (10) Part 2 of Schedule 2 shall have effect with respect to the statutory committees.
- (11) On a proposal from the Board or otherwise, the Secretary of State may by order—
  - (a) create a new statutory committee and confer functions on it; or
  - (b) vary the functions of the statutory committees.
- (12) The functions of the Board under or by virtue of this Order are without prejudice to the functions of the GMC or any of its statutory committees under the Medical Act.

## **PART 3**

### **EDUCATION AND TRAINING**

#### **Education and training leading to the award of a Certificate of Completion of Training**

4.—(1) Subject to paragraph (2), the Board shall from time to time establish the standards and requirements relating to postgraduate medical education and training necessary for the award of a CCT in general practice and in each of the specialties listed in Schedule 3.

(2) Standards and requirements established by the Board under paragraph (1) must comply with the minimum requirements for general practice and specialist training, set out in articles 5 and 6 respectively, but nothing in this Order shall prevent the Board from establishing additional requirements or higher standards under this article as it considers appropriate.

(3) The standards and requirements established under paragraph (1) shall be set out in rules.

(4) The standards and requirements established under paragraph (1) shall include—

- (a) the standards required for entry to training;
- (b) the education and training curriculum to be followed for general practice and for each specialty listed in Schedule 3;
- (c) the outcomes to be achieved by that education and training, including the level of skill, knowledge and expertise required; and
- (d) the methods of assessment of progress during and upon completion of that education and training.

(5) In performing the function mentioned in article 3(2)(b), the Board may approve—

- (a) a course of postgraduate medical education and training (or part of such a course) which the Board is satisfied meets or would meet the standards and requirements established under paragraph (1);
  - (b) a programme of postgraduate medical education and training (or part of such a programme) which the Board is satisfied meets or would meet the standards and requirements established under paragraph (1);
  - (c) a training post which the Board is satisfied meets or would meet the standards and requirements established under paragraph (1);
  - (d) a general practitioner, whom the Board considers to be properly organised and equipped for providing the training specified in article 5(1)(c)(i);
  - (e) examinations, assessments or other tests of competence.
- (6) In connection with paragraph (5), the Board may approve postgraduate medical education and training taking place outside the United Kingdom.
- (7) In exercising its functions under paragraph (5), the Board may attach conditions to any approval it gives or has given including, if the Board considers appropriate, a period of time for which that approval is valid.
- (8) The Board may at any time withdraw approval where it is satisfied that—
- (a) any conditions imposed under paragraph (7); or
  - (b) any standards or requirements established under paragraph (1),
- are not being met.
- (9) The Board shall cause to be published from time to time (electronically or otherwise) a list of the education and training it has approved which shall specify—
- (a) any course or programme (or part of such a course or programme), training post, general practitioner, examination, assessment or other test of competence that it has approved pursuant to paragraph (5);
  - (b) the date on which that approval was given;
  - (c) any conditions to which that approval is subject pursuant to paragraph (7);
  - (d) where relevant, the date on which that approval was withdrawn; and
  - (e) such other matters as the Board may specify in rules made under paragraph (10).
- (10) The Board shall make rules about the procedure to be followed for giving, withdrawing, and attaching conditions to, approval under this article.
- (11) Subject to the minimum requirements specified in articles 5 and 6, rules made under paragraph (10) may provide that of the categories specified in paragraph (5), only certain categories will be approved by the Board in respect of general practice or a specialty listed in Schedule 3.

### **Minimum requirements for general practice training**

- 5.—(1) The minimum requirements for general practice training referred to in article 4(2) are that—
- (a) the training shall comply with the requirements of article 31(1) of the Directive or, in the case of part-time training, article 31(1) together with article 34 (requirements for specific training in general practice);
  - (b) subject to paragraph (3), the training shall include at least three years in full-time employment, and shall be supervised by the Board; and
  - (c) the three year period specified in sub-paragraph (b) shall include—

- (i) a period or periods amounting to at least 12 months employment as a GP Registrar which takes place with a general practitioner who has been approved by the Board for the purpose of providing training in accordance with article 4(5)(d), and
- (ii) a period or periods amounting to at least 12 months employment in a post (or posts), in a specialty or specialties which the Board has prescribed for this purpose, that post or posts being in accordance with such other requirements as the Board may prescribe.

(2) Any period remaining under paragraph (1)(b), the minimum periods set out in paragraph (1)(c) having been met, shall consist of a period of employment in a post (or posts) falling within paragraph (1)(c)(i) or (ii).

(3) In relation to periods of part-time employment under paragraph (1)(c), the requirements of this article may be satisfied by periods of part-time employment of equivalent duration but it shall not be regarded as equivalent unless it includes at least two periods of full-time employment, each lasting not less than one week, one such period falling within paragraph (1)(c)(i), and one such period falling within paragraph (1)(c)(ii).

(4) A general practitioner who is approved by the Board under article 4(5)(d) for the purposes of providing training to a GP Registrar under paragraph (1)(c)(i) shall be known as a “GP Trainer”.

(5) “GP Registrar” means a medical practitioner who is being trained in general practice by a GP Trainer whether as part of training leading to the award of a CCT or otherwise.

(6) Schedule 4 (which sets out the text of articles 30, 31(1) and 34 of the Directive as it had effect on the date this Order was made) shall have effect.

### **Minimum requirements for specialist training**

6.—(1) The minimum requirements for specialist training referred to in article 4(2) are that—

- (a) the training must constitute an entire course of training in the specialty in question and must, subject to paragraph (2)—
  - (i) comprise theoretical and practical instruction,
  - (ii) be full-time training,
  - (iii) be supervised by the Board,
  - (iv) be in a university centre, in a teaching hospital or, where the Board is satisfied that it is appropriate, in a health establishment approved for this purpose by the Board,
  - (v) involve the personal participation of the medical practitioner training to be a specialist in the activity and in the responsibilities of the establishments concerned,
  - (vi) comply with the requirements of point 1 of Annex I to the Directive (the characteristics of the full-time training of specialists), and
  - (vii) be at least as long as the relevant period (if any) specified in Schedule 3.

(2) Part-time specialist training is permitted where training on a full-time basis would not be practicable for well-founded individual reasons, and accordingly, the Board may approve part-time training which satisfies—

- (a) any conditions imposed by the Board;
- (b) the conditions set out in paragraph (1)(a)(i), (iii), (iv) and (v);
- (c) the following conditions—
  - (i) the standard of training must not be lower than that of full-time training,
  - (ii) the total length of training in the specialty in question must not be less than that of full-time training in the same specialty, and

(iii) the training must comply with the requirements of point 2 of Annex I to the Directive (the characteristics of the part-time training of specialists).

(3) Schedule 5 (which sets out the text of Annex I to the Directive as it had effect on the date this Order was made) shall have effect.

### **Visiting panels**

7.—(1) The Board may, if it thinks fit, appoint a panel of persons (a “visiting panel”) to visit any hospital, institution, general practitioner or other person by whom, where or under whose direction or management—

- (a) any postgraduate medical education or training leading to the award of a CCT is, or is proposed to be given;
- (b) any sub-specialty training is, or is proposed to be given.

(2) A visiting panel must include at least one person who is not and never has been a registered medical practitioner and who does not hold any qualification that is registrable under the Medical Act.

(3) Where a visiting panel visits any hospital, institution, general practitioner or other person in the exercise of its functions under this article, it shall be the duty of the visiting panel to prepare a report to the Board on the visit.

(4) The Board shall, following a request by any person, make available such reports.

(5) Subject to the requirements of this article, the Board shall make rules in relation to visiting panels and such rules shall include provision as to—

- (a) the composition of visiting panels;
- (b) the areas or matters to be covered by a report to the Board under paragraph (3);
- (c) the frequency with which visiting panels shall visit the persons or bodies specified in paragraph (1);
- (d) the manner in which such visits are to be conducted;
- (e) the payment of allowances to persons appointed to visiting panels, including the payment of allowances to employers of persons appointed to visiting panels for the purposes of enabling visitors to perform functions under this article; and
- (f) the reimbursement of such expenses as persons appointed to visiting panels may reasonably have incurred in the course of the panel carrying out its functions under this article.

### **Award and withdrawal of a Certificate of Completion of Training**

8.—(1) The Board shall award a CCT to any person who applies to the Board for that purpose (and pays any fee specified by the Board in rules) if the Board is satisfied that he has satisfactorily completed education and training, approved by the Board in accordance with article 4.

(2) A CCT may be awarded only to a registered medical practitioner, and a CCT in the specialty of oral and maxillo-facial surgery may be awarded only to a person who is also a registered dentist.

(3) Subject to paragraph (4), a CCT may be awarded only to a person who has been appointed to a course of training intended to lead to the award of a CCT and has successfully completed that course of training.

(4) Nothing in this article shall prevent the Board from awarding a CCT to a person when exercising its competent authority functions under article 8 of the Directive as set out in article 20(3) (a) of this Order.

(5) The Board may only award a CCT in general practice, or in a specialty listed in Schedule 3.

(6) A CCT shall state—

- (a) the date on which it was awarded;
- (b) that it was awarded in general practice, or, where applicable, in which specialty it was awarded;
- (c) the name of its holder;
- (d) his primary medical qualifications and where those qualifications were awarded; and
- (e) his registration number in the register of medical practitioners kept by the Registrar of the GMC under section 2 of the Medical Act (establishment and maintenance of registers),

and where more than one year of the training to which the CCT attests took place outside the EEA, the CCT shall make clear that this was so, and shall state the length (in aggregate) of such training.

(7) A CCT shall be signed by the chair of the Board or by such other persons as the chair has nominated for this purpose.

(8) The Board shall make rules as to the procedure to be followed in relation to and by persons wishing to apply to the Board for a CCT, including rules as to the evidence it requires in support of an application for a CCT.

(9) Subject to paragraph (10), for the purposes of article 30 of the Directive (which requires EEA States to institute specific training in general practice), the vocational training certificate issued in the United Kingdom is the CCT in general practice.

(10) The following are also vocational training certificates—

- (a) a certificate of prescribed experience; and
- (b) a certificate of equivalent experience that has been annotated in accordance with regulation 12(7) of the Vocational Training Regulations, regulation 12(7) of the Vocational Training Regulations (Scotland) or regulation 12(7) of the Vocational Training Regulations (Northern Ireland) (which relate to certificate of equivalent experience).

(11) For the purposes of article 4 of the Directive, the diploma, certificate or other evidence of formal qualifications in specialised medicine in the United Kingdom is the CCT, awarded in a specialty listed in Schedule 3.

(12) Where the Board is satisfied that a CCT has been fraudulently procured or incorrectly awarded, it shall—

- (a) direct that the CCT shall be withdrawn; and
- (b) notify the GMC that it has withdrawn that person's CCT.

### **Information to be provided to the Board**

**9.—**(1) This article applies to any hospital, institution, general practitioner or other person that may be visited by a visiting panel pursuant to article 7(1).

(2) Whenever required to do so by the Board, any person or body specified in paragraph (1) shall give to the Board such information as the Board may reasonably require in connection with the exercise of its functions under or by virtue of this Order.

(3) The matters with respect to which the Board may require information under paragraph (2) include—

- (a) the standards and requirements which must be met by persons pursuing postgraduate medical education and training leading to the award of a CCT;
- (b) the procedures for managing that education or training.

(4) Where a person or body specified in paragraph (1) fails to comply with any reasonable request for information made by the Board under this article, the Board may on that ground alone, after having warned that person or body that this sanction may be imposed, direct that the postgraduate medical education or training to which that information relates is no longer approved, or from a specified date will be no longer approved, within the meaning of article 4(5).

## PART 4

### THE REGISTERS

#### The General Practitioner Register

**10.**—(1) The GMC shall keep a register of general practitioners (“the General Practitioner Register”).

(2) Subject to paragraph (3), the General Practitioner Register shall contain the names of—

- (a) persons who hold a CCT in general practice awarded by the Board;
- (b) other eligible general practitioners as specified in article 11; and
- (c) persons who have an acquired right in accordance with article 12 and Schedule 6.

(3) A person is entitled to have his name included in the General Practitioner Register if he applies to the Registrar of the GMC for the purpose, paying any fee specified by the GMC in rules, and satisfies the Registrar—

- (a) of his entitlement by virtue of paragraph (2); and
- (b) that he is a registered medical practitioner.

(4) Subject to paragraph (5), unless a person’s name is included in the General Practitioner Register, he shall not—

- (a) in England and Wales—
  - (i) be nominated or approved to fill a vacancy for a medical practitioner pursuant to any regulations made under section 29B of the 1977 Act<sup>(3)</sup> (vacancies for medical practitioners),
  - (ii) be included in a list of persons undertaking to provide general medical services pursuant to any regulations made under section 29 of the 1977 Act<sup>(4)</sup> (arrangements and regulations for general medical services) or in a list of persons approved for the purpose of assisting in the provision of any such services prepared pursuant to section 43D of that Act<sup>(5)</sup> (supplementary lists),
  - (iii) perform personal medical services as part of a pilot scheme within the meaning of section 1(1) of the 1997 Act (pilot schemes), or in accordance with any arrangements made pursuant to section 28C of the 1977 Act<sup>(6)</sup> (personal medical or dental services), or

(3) Section 29B was inserted by the National Health Service (Primary Care) Act 1997 (c. 46), section 32(1); and amended by: the Health and Social Care Act 2001 (c. 15), section 15(1) and (2), and section 20(1) and (3); and the National Health Service Reform and Health Care Professions Act 2002 (c. 17), section 2(5) and Schedule 2, paragraphs 1 and 5.

(4) 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; the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, paragraph 8; and the National Health Service Reform and Health Care Professions Act 2002 (c. 17), section 2(5) and Schedule 2, paragraphs 1 and 3.

(5) Section 43D was inserted by the Health and Social Care Act 2001 (c. 15), section 24, and amended by the National Health Service Reform and Health Care Professions Act 2002 (c. 17), section 2(5) and Schedule 2, paragraphs 1 and 20.

(6) Section 28C is to be inserted by the National Health Service (Primary Care) Act 1997 (c. 46), section 21(1).



- (iv) be included in any list of persons who may perform personal medical services pursuant to any regulations made under section 8ZA of the 1997 Act<sup>(7)</sup> (lists of persons who may perform personal medical services or personal dental services) or section 28DA of the 1977 Act<sup>(8)</sup> (lists of persons who may perform personal medical services or personal dental services);
- (b) in Scotland—
- (i) be nominated or approved to fill a vacancy for a medical practitioner to provide general medical services pursuant to any regulations made under section 19B (vacancies for medical practitioners) or section 24 (regulations for medical practices committees) of the 1978 Act<sup>(9)</sup>,
  - (ii) be included in a list of persons undertaking to provide general medical services pursuant to any regulations made under section 19 of the 1978 Act (arrangements and regulations for general medical services) or in a list of persons approved to assist in the provision of such services pursuant to section 24B of that Act<sup>(10)</sup> (supplementary lists),
  - (iii) perform personal medical services as part of a pilot scheme within the meaning of section 1(1) of the 1997 Act (pilot schemes) or in accordance with any arrangements made pursuant to section 17C of the 1978 Act<sup>(11)</sup> (personal medical or dental services), or
  - (iv) be included in a list of persons who may perform personal medical services pursuant to any regulations made under section 17EA of the 1978 Act<sup>(12)</sup> (services lists);
- (c) in Northern Ireland—
- (i) be included in a list of persons undertaking to provide general medical services pursuant to any regulations made under Article 56 of the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(13)</sup> (arrangements for general medical services),
  - (ii) perform personal medical services as part of a pilot scheme within the meaning of Article 3(1) of the Health Services (Primary Care) (Northern Ireland) Order 1997<sup>(14)</sup>, or in accordance with any arrangements made pursuant to Article 15B<sup>(15)</sup> of the Health and Personal Social Services (Northern Ireland) Order 1972, or perform personal medical services within the meaning of Article 3(7) of the Health Services (Primary Care) (Northern Ireland) Order 1997, or
  - (iii) be engaged as a deputy by, or be employed as an assistant by a person undertaking to provide general medical services pursuant to any regulations made under Article 56 of the Health and Personal Social Services (Northern Ireland) Order 1972 (arrangements for general medical services).
- (5) The prohibition in paragraph (4) does not apply to a person undertaking a period of employment as a GP Registrar, or a person who is provisionally registered under section 15, 15A or 21 of the Medical Act acting in the course of his employment in a resident medical capacity in an approved medical practice (within the meaning of section 11(4) of that Act).

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(7) Section 8ZA was inserted by the Health and Social Care Act 2001(c. 15), section 26(2).

(8) Section 28DA is to be inserted by the Health and Social Care Act 2001 (c. 15), section 26(1).

(9) Section 19B is to be inserted by the National Health Service (Primary Care) Act 1997 (c. 46), section 33(1).

(10) Section 24B is to be inserted by the [Community Care and Health \(Scotland\) Act 2002 \(asp 5\)](#), section 18(2).

(11) Section 17C was inserted by the National Health Service (Primary Care) Act 1997 (c. 46), section 21(2).

(12) Section 17EA was inserted by the [Community Care and Health \(Scotland\) Act 2002 \(asp 5\)](#), section 18(1).

(13) [S.I. 1972/1265 \(N.I. 14\)](#).

(14) [S.I. 1997/1177 \(N.I. 7\)](#).

(15) Article 15B is to be inserted by Article 21 of the Health Services (Primary Care) (Northern Ireland) Order 1997 ([S.I. 1997/1177 \(N.I. 7\)](#)).

(6) A person whose name is included in the General Practitioner Register by virtue of an acquired right under paragraph 1(d) of Schedule 6 shall not be—

- (a) nominated or approved by a Health Authority or Primary Care Trust pursuant to any regulations made under section 29B of the 1977 Act (vacancies for medical practitioners), or included in a list of persons undertaking to provide general medical services pursuant to any regulations made under section 29 of the 1977 Act (arrangements and regulations for general medical services);
- (b) nominated or approved under section 19B of the 1978 Act (vacancies for medical practitioners), selected in accordance with section 23 of that Act (distribution of general medical services) or included in a list of persons undertaking to provide general medical services pursuant to any regulations made under section 19 of that Act (arrangements and regulations for general medical services); or
- (c) included in a list of persons undertaking to provide general medical services pursuant to any regulations made under Article 56 of the Health and Personal Social Services (Northern Ireland) Order 1972 (arrangements for general medical services),

if he is included in the General Practitioner Register only by virtue of that acquired right.

(7) A restricted services principal whose name is included in the General Practitioner Register by virtue of—

- (a) an acquired right by virtue of paragraph 1(a) of Schedule 6; or
- (b) an exemption from the need to have the prescribed experience under regulation 5(1)(d) of the Vocational Training Regulations, regulation 5(1)(d) of the Vocational Training Regulations (Scotland) or regulation 5(1)(d) of the Vocational Training Regulations (Northern Ireland) (which relate to exemptions),

shall not be entitled to practise otherwise than in accordance with the restriction which applies in his case merely because of his entry on the General Practitioner Register by virtue of that acquired right or exemption.

### **General practitioners eligible for entry in the General Practitioner Register**

**11.**—(1) A person is an eligible general practitioner for the purposes of article 10(2)(b) if he holds—

- (a) a vocational training certificate or a certificate of acquired rights issued in an EEA State other than the United Kingdom in accordance with Title IV of the Directive, and he is—
  - (i) a national of an EEA State, or
  - (ii) a person who for the purposes of access to and the practice of the medical profession is entitled to be treated in the same way as such a national in order to enable an enforceable Community right to be exercised;
- (b) a certificate of prescribed experience; or
- (c) a certificate of equivalent experience.

(2) A person is also an eligible general practitioner for the purposes of article 10(2)(b) if he was exempt from the need to have acquired the prescribed experience by virtue of regulation 5(1)(a), (b), (c), (d) or (f) of—

- (a) the Vocational Training Regulations (exemptions);
- (b) the Vocational Training Regulations (Scotland) (exemptions); or
- (c) the Vocational Training Regulations (Northern Ireland) (exemptions),

but if a restricted services principal is eligible for inclusion in the General Practitioner Register only by virtue of an exemption under regulation 5(1)(d) of the regulations set out in sub-paragraphs (a),

(b) or (c), the Registrar of the GMC shall ensure that the restriction on his right to practise as provided for in article 10(7) is indicated in that person's entry in the General Practitioner Register in such manner as the Registrar thinks fit.

(3) A person is also an eligible general practitioner for the purposes of article 10(2)(b) if he does not fall within paragraph (1) or (2) but he has—

- (a) undertaken training in general practice; or
- (b) been awarded qualifications in general practice,

and he satisfies the Board that that training is, or those qualifications are, or both when considered together are, equivalent to a CCT in general practice.

(4) If a person falls within paragraph (3) and—

- (a) he is also a person falling within sub-paragraph (a)(i) or (ii) of paragraph (1), and he has qualifications in general practice awarded outside the EEA which have been accepted by another EEA State as qualifying him to practise as a general practitioner in that State; or
- (b) he has acquired experience or knowledge in general practice, wherever obtained,

the Board shall, when considering whether it is satisfied as mentioned in paragraph (3), take account of that acceptance or of that experience or knowledge.

(5) If the Board is not satisfied, having taken into account the matters specified in paragraph (4) (where applicable), that a person's training, qualifications, or both when considered together are equivalent to a CCT in general practice, the Board shall give reasons as to why it is not satisfied, and, in particular, shall inform the person of—

- (a) the period of additional training that the person must undertake, and the fields to be covered by it;
- (b) any examination, assessment (including a specified period of assessment) or other test of competence that the person must complete to the Board's satisfaction,

in order to satisfy the Board under paragraph (3).

(6) In respect of any application under paragraph (3), the Board shall notify the applicant of its decision (and, where relevant, of the matters set out in paragraph (5)), in accordance with its duty under article 16(4).

(7) If the Board is satisfied, pursuant to paragraph (3), that a person's training, qualifications, or both when considered together are equivalent to a CCT in general practice, it shall, if the person so requests, issue to that person a written statement attesting to the fact that the person has satisfied the Board that he is eligible for entry in the General Practitioner Register ("statement of eligibility for registration").

(8) The Board shall make rules as to the procedure to be followed in relation to and by persons applying to the Board under paragraph (3), including rules as to the evidence it requires in support of such an application.

### **Acquired rights of general practitioners**

**12.—**(1) For the purposes of article 36(2) of the Directive (requirement for all EEA States to specify the acquired rights that it recognises for the purpose of exercising general medical practice under its national social security scheme without a vocational training certificate), a person has an acquired right to practise as a general practitioner if he falls within one of the categories of persons set out in Schedule 6.

(2) If—

- (a) a person is included in the General Practitioner Register under article 10(2)(c) only by virtue of an acquired right under paragraph 1(d) of Schedule 6; or

- (b) a restricted services principal is included in the General Practitioner Register only by virtue of paragraph 1(a) of Schedule 6,

the Registrar of the GMC shall ensure that the restriction on his right to practise as provided for in article 10(6) or (7) (as appropriate) is indicated in that person's entry in the General Practitioner Register in such manner as the Registrar thinks fit.

(3) The Board shall, if a person so requests in writing, issue a certificate of acquired rights to him if it is satisfied that he has an acquired right to practise by virtue of Schedule 6.

(4) The Board may make rules as to the procedure to be followed and the evidence it requires in support of a request made by a person under paragraph (3).

### **The Specialist Register**

**13.**—(1) The GMC shall keep a register of specialists (“the Specialist Register”).

(2) Subject to paragraph (3), the Specialist Register shall contain the names of—

- (a) persons who hold a CCT in a specialty listed in Schedule 3 awarded by the Board; and
- (b) other eligible specialists as specified in article 14.

(3) A person is entitled to have his name included in the Specialist Register if he applies to the Registrar of the GMC for the purpose, paying any fee specified by the GMC in rules, and satisfies the Registrar—

- (a) of his entitlement by virtue of paragraph (2); and
- (b) that he is a registered medical practitioner and, in the case of an oral and maxillo-facial surgeon, that he is also a registered dentist.

(4) The Specialist Register shall indicate—

- (a) the specialty in respect of which each person's name is included in the register; and
- (b) subject to paragraph (5), where the Board is satisfied that he has a particular expertise in a field within that specialty and he so requests in his application under paragraph (3) or subsequently, the name or a description of that field.

(5) In order to satisfy the Board that he has a particular expertise in a field such that he is entitled to have that expertise indicated in the register under paragraph (4)(b), the person must satisfy the Board that he has satisfactorily completed—

- (a) sub-specialty training in the United Kingdom that is approved by the Board; or
- (b) any other sub-specialty training outside the United Kingdom that the Board is satisfied is equivalent to sub-specialty training approved by the Board.

(6) Subject to paragraph (7), a person may not take up appointment to any post as a consultant in the National Health Service in a specialty, or any more specialised field within such a specialty, unless his name is included in the Specialist Register.

(7) Paragraph (6) does not apply to any person who held a post as a consultant in oral and maxillo-facial surgery in the National Health Service immediately before 1st January 1997.

### **Specialists eligible for entry in the Specialist Register**

**14.**—(1) A person is an eligible specialist for the purposes of article 13(2)(b) if he was included in the specialist register maintained by the GMC under the ESMQO 1995 immediately before article 13 of this Order came into force, by virtue of the transitional provisions set out in article 12 of the ESMQO 1995 (existing specialists).

(2) A person is also an eligible specialist for the purposes of article 13(2)(b) if the STA (or, where applicable, the STA's appeal panel), has determined that that person is an eligible specialist pursuant to article 9(2) or (3) of the ESMQO 1995 (eligible specialists).

(3) A person is also an eligible specialist for the purposes of article 13(2)(b) if he holds a recognised specialist qualification (as specified in article 15) and he is—

- (a) a national of an EEA State; or
- (b) a person who for the purposes of access to and the practice of the medical profession is entitled to be treated in the same way as such a national in order to enable an enforceable Community right to be exercised.

(4) A person is also an eligible specialist for the purposes of article 13(2)(b) if—

- (a) he does not fall within paragraph (3); but
- (b) he has—

- (i) undertaken specialist training, or
- (ii) been awarded specialist qualifications,

in a specialty listed in Schedule 3, and he satisfies the Board that that specialist training is, or those qualifications are, or both when considered together are, equivalent to a CCT in the specialty in question.

(5) A person is also an eligible specialist for the purposes of article 13(2)(b) if—

- (a) he has—
  - (i) undertaken specialist training, or
  - (ii) been awarded specialist qualifications,outside the United Kingdom in a medical specialty not listed in Schedule 3; or
- (b) he has knowledge of or experience in any medical specialty derived from academic or research work,

and he satisfies the Board that these give him a level of knowledge and skill consistent with practise as a consultant in the National Health Service.

(6) If a person falls within paragraph (4) or (5) and—

- (a) he is also a person falling within sub-paragraph (a) or (b) of paragraph (3), and he has specialist qualifications awarded outside the EEA which have been accepted by another EEA State as qualifying him to practise as a specialist in that State; or
- (b) he has acquired specialist medical experience or knowledge, wherever obtained,

the Board shall, when considering whether it is satisfied as mentioned in paragraph (4) or (5), take account of that acceptance or of that experience or knowledge.

(7) In paragraphs (4) and (5), “specialist training” means specialist medical training that—

- (a) comprises of theoretical and practical instruction in a post specifically designated as a training post;
- (b) takes place in a university centre, a teaching hospital or other health establishment;
- (c) is supervised by an appropriate authority or other body; and
- (d) involves the personal participation of the person training to be a specialist in the activity and in the responsibilities of the establishment concerned.

(8) If the Board is not satisfied, having taken into account the matters specified in paragraph (6) (where applicable), that—

- (a) under paragraph (4), a person's specialist training, or specialist qualifications, or both when considered together, are equivalent to a CCT in the specialty in question; or

(b) under paragraph (5)—

- (i) a person's specialist training, or specialist qualifications, or both when considered together, give him the required level of knowledge and skill, or
  - (ii) a person's knowledge of, or experience in, any medical specialty derived from academic or research work, give him the required level of knowledge and skill,
- paragraph (9) shall apply.

(9) Where this paragraph applies, the Board shall give reasons as to why it is not satisfied, and, in particular, shall inform the person of—

- (a) the period of additional training that the person must undertake, and the fields to be covered by it;
- (b) any examination, assessment (including a specified period of assessment) or other test of competence that the person must complete to the Board's satisfaction,

in order to satisfy the Board under paragraph (4) or (5).

(10) In respect of any application under paragraph (4) or (5), the Board shall notify the applicant of its decision (and, where relevant, of the matters set out in paragraph (9)), in accordance with its duty under article 16(4).

(11) If the Board is satisfied—

- (a) pursuant to paragraph (4), that a person's specialist training, specialist qualifications, or both when considered together, are equivalent to a CCT in the specialty in question; or
- (b) pursuant to paragraph (5) that—
  - (i) a person's specialist training, specialist qualifications, or both when considered together, give him the required level of knowledge and skill, or
  - (ii) a person's knowledge of, or experience in, any medical specialty derived from academic or research work, give him the required level of knowledge and skill,

it shall, if the person so requests, issue to that person a written statement attesting to the fact that the person has satisfied the Board that he is eligible for inclusion in the Specialist Register ("statement of eligibility for registration").

(12) The Board shall make rules as to the procedure to be followed in relation to and by persons applying to the Board under paragraph (4) or (5), including rules as to the evidence it requires in support of such an application.

### **Recognised specialist qualifications**

**15.—**(1) The following are recognised specialist qualifications for the purposes of article 14(3)—

- (a) a CCST;
- (b) a specialist qualification listed in Schedule 7 granted in an EEA State other than the United Kingdom in a specialty in which the United Kingdom awards a qualification as set out in Part 1 of Schedule 3;
- (c) a specialist qualification which—
  - (i) was awarded in an EEA State other than the United Kingdom,
  - (ii) was awarded in a specialty in which the United Kingdom awards such a qualification as set out in Part 1 of Schedule 3,
  - (iii) does not satisfy all the minimum training requirements laid down by the Directive,
  - (iv) was awarded following training begun before the relevant date, and

- (v) is accompanied by a certificate from the competent authority in the EEA State in which the qualification was awarded or in which its holder has subsequently become established, stating that the holder has been engaged in the practice of his specialty for at least the period required by article 9(2) of the Directive;
  - (d) a specialist qualification in a specialty in which the United Kingdom awards such a qualification as set out in Part 1 of Schedule 3 which—
    - (i) has been obtained at any time in an EEA State other than the United Kingdom,
    - (ii) does not conform with the designations set out in Schedule 7 or Annex C of the Directive (which together set out the relevant specialist qualifications awarded in EEA States), and
    - (iii) is accompanied by a certificate of the competent authorities of that State to the effect that the qualification was awarded following training in accordance with the provisions of articles 24, 25, 26 or 29 of the Directive (which set out the minimum standards of training for specialist qualifications) and is treated by that State as if it were a qualification set out under the heading relating to the State in Schedule 7 or Annex C of the Directive;
  - (e) a specialist qualification which—
    - (i) was awarded in Spain to doctors who completed specialist training before 1st January 1995 that did not comply with the minimum requirements laid down in articles 24 to 26 of the Directive,
    - (ii) was awarded in a specialty in which the United Kingdom awards such a qualification as set out in Part 1 of Schedule 3, and
    - (iii) is accompanied by a certificate awarded by the competent Spanish authorities attesting to the fact that the person concerned has passed the test of specific professional competence organised in accordance with article 9(2a) of the Directive with the aim of verifying that the person concerned has a level of knowledge and competence comparable to that of doctors holding the specialist qualification listed in relation to Spain in Schedule 7; and
  - (f) a specialist qualification in a specialty listed in Part 1 of Schedule 3—
    - (i) which is evidence of training which does not accord with the standards laid down by articles 24 to 26 of the Directive, undertaken on the territory of the former German Democratic Republic and begun before 3rd April 1992,
    - (ii) where the holder of the qualification satisfies the GMC (by means of a certificate of the competent authorities in Germany or otherwise) that he is entitled by virtue of that qualification to practise his specialty throughout the territory of Germany on the same conditions as the holder of a qualification awarded in Germany and listed in Schedule 7 and Annex C of the Directive, and
    - (iii) where evidence of the qualification is accompanied by a certificate of the competent authorities in Germany that the holder has practised his specialty in Germany for the period referred to in article 9(4) of the Directive (training in the former German Democratic Republic).
- (2) In paragraph (1)(c), “the relevant date” means—
- (a) 1st January 1981, in the case of a qualification granted in Greece;
  - (b) 1st January 1986, in the case of a qualification granted in Spain or Portugal;
  - (c) 1st January 1994, in the case of a qualification granted in Austria, Finland, Iceland, Norway, or Sweden;
  - (d) 1st May 1995, in the case of a qualification granted in Liechtenstein;

- (e) 1st June 2002, in the case of a qualification granted in Switzerland; or
- (f) 20th December 1976, in the case of a qualification granted in any other EEA State.

### **Decisions on inclusion in the Registers**

**16.**—(1) The Registrar of the GMC shall, within the time specified in paragraph (2), notify a person who has made an application for inclusion in either of the Registers pursuant to article 10(3) or 13(3) that—

- (a) his name has been included in that Register; or
- (b) his name has not been included in that Register, the reason for that decision, and of the applicant's right to appeal pursuant to article 23 (where applicable).

(2) Except in relation to cases falling within paragraph (3), the Registrar shall notify an applicant of the matters specified in paragraph (1) within—

- (a) the period of three months beginning with the date on which the Registrar of the GMC receives the application with full supporting documentation; or
- (b) any period of additional time which is permitted by article 15 of the Directive.

(3) For the purposes of paragraph (2), the cases excepted are those where a person has applied to the GMC for inclusion in either of the Registers and he has previously had to satisfy the Board that he is—

- (a) an eligible general practitioner pursuant to article 11(3); or
- (b) an eligible specialist pursuant to article 14(4) or (5).

(4) In relation to cases falling within paragraph (3), the Board shall—

- (a) upon receiving an application with full supporting documentation, pursuant to article 11(3), or article 14(4) or (5) (as the case may be), deal expeditiously with that application; and
- (b) co-operate with the GMC, and the GMC shall co-operate with the Board, to ensure that an applicant who has made an application to the Board pursuant to article 11(3), or article 14(4) or (5) (as the case may be) is able to apply to the GMC for inclusion in either of the Registers pursuant to article 10(3) or 13(3) and obtain a decision from the GMC within the specified time.

(5) In paragraph (4), the specified time means, subject to paragraph (6), the period of three months—

- (a) beginning on the date on which the Board receives all the documents enabling it to determine whether the applicant is an eligible general practitioner or an eligible specialist pursuant to article 11(3) or article 14(4) or (5); and
- (b) ending with the date on which the Registrar of the GMC gives the applicant notice under paragraph (1).

(6) In calculating the period of three months pursuant to paragraph (5), the following shall be disregarded—

- (a) the period—
  - (i) beginning with the date on which the Board gives the applicant notice under article 11(6) or 14(10) (as the case may be), and
  - (ii) ending with the date on which the GMC receives all the documents enabling it to determine whether it is satisfied of the applicant's entitlement to be registered pursuant to article 10(3) or article 13(3) (as the case may be); and
- (b) any period of additional time which is permitted by article 15 of the Directive.



(7) For the purposes of complying with its duty pursuant to paragraph (4), the Board may, if it sees fit, provide to the GMC information relating to, or copies of, any applications that have been made to it pursuant to article 11(3), or article 14(4) or (5).

#### **Access to the Registers etc.**

**17.**—(1) The GMC shall cause to be published from time to time (electronically or otherwise) a copy of the Registers on a date specified by the Registrar.

(2) If the Registrar of the GMC receives a written inquiry from any person as to whether a named person is included in the General Practitioner Register or the Specialist Register, he shall provide that person with a written response which shall, where applicable, include the details contained in the Register relating to that named person's entry.

(3) A certificate purporting to be signed by the Registrar of the GMC, certifying that a person—

- (a) is included in the General Practitioner Register or the Specialist Register;
- (b) is not so included;
- (c) was included in the General Practitioner Register or the Specialist Register at a specified date or during a specified period;
- (d) was not included in the General Practitioner Register or the Specialist Register at a specified date or during a specified period; or
- (e) has never been included,

shall be evidence (and in Scotland sufficient evidence) of the matters certified.

#### **Removal and suspension from the Registers**

**18.**—(1) Where it comes to the notice of the Registrar of the GMC that a person is no longer a registered medical practitioner, the Registrar shall remove that person's name from the General Practitioner Register or the Specialist Register (as the case may be), and shall send him notice of having done so.

(2) Subject to paragraph (3) and (4), where a person removed from the General Practitioner Register or the Specialist Register pursuant to paragraph (1) becomes once again a registered medical practitioner, the Registrar shall, if requested to do so by that person, once again include that person's name in the General Practitioner Register or the Specialist Register (as the case may be) and shall send him notice of having done so.

(3) Where it comes to the notice of the Registrar of the GMC that in the case of an oral and maxillo-facial surgeon—

- (a) his registration in the register of dentists (kept under section 14 of the Dentists Act 1984<sup>(16)</sup> (the dentists register and the registrar)) has been suspended under any provision of that Act; or
- (b) he is no longer a registered dentist,

the Registrar shall remove that person's name from the Specialist Register and shall send him notice of having done so.

(4) Where a person removed from the Specialist Register by virtue of paragraph (3)—

- (a) is no longer suspended from the register of dentists (kept under section 14 of the Dentists Act 1984 (the dentists register and the registrar)), and has not had his name erased from that register; or
- (b) once again becomes a registered dentist,

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(16) 1984 c. 24.

the Registrar shall, if requested to do so by that person and provided that person is also a registered medical practitioner, once again include that person's name in the Specialist Register and shall send him notice of having done so.

(5) Where the GMC is satisfied that any entry in the General Practitioner Register or the Specialist Register has been fraudulently procured or incorrectly made it may direct that the entry shall be removed from that Register, and paragraph (6) shall apply.

(6) A decision taken by the GMC pursuant to paragraph (5) shall be treated as an appealable registration decision under Schedule 3A to the Medical Act (registration appeals); and the procedure in that Schedule shall accordingly apply.

(7) Paragraph 6 of Schedule 3A to the Medical Act (notices) shall apply to notices required by this article to be sent to any person by the Registrar of the GMC as it applies to the notifications referred to in that paragraph.

## **PART 5**

### **THE COMPETENT AUTHORITIES FOR CERTAIN EEA PURPOSES**

#### **Specific training in general practice**

**19.** Pursuant to article 42 of the Directive—

- (a) the Board is hereby designated as the competent authority in the United Kingdom for the purposes of Title IV of the Directive (which relates to specific training in general medical practice) except as mentioned in sub-paragraph (b); and
- (b) for the purposes of article 37 of the Directive (recognition of certificates), the GMC is hereby designated as being responsible for the recognition of vocational training certificates and certificates of acquired rights issued in EEA States other than the United Kingdom.

#### **Specialist qualifications**

**20.—(1)** Pursuant to article 42 of the Directive, in relation to specialist qualifications, there shall be two competent authorities in the United Kingdom for the purposes of Title II and Title III of the Directive—

- (a) the GMC is hereby designated as the competent authority for the purposes of the recognition and registration of specialist qualifications; and
- (b) subject to article 3(12), the Board is hereby designated as the competent authority for the purposes of specialist training and the issue of CCTs and certain other certificates.

(2) In addition to the functions conferred upon it elsewhere in this Order, the GMC shall, in the event of justified doubts, perform the function of requiring the competent authority of another Member State that has awarded a diploma, certificate or other evidence of formal qualification to confirm its authenticity and to confirm that the holder of the diploma, certificate or other evidence of formal qualification has fulfilled the Directive's minimum training requirements.

(3) In addition to the functions conferred upon it elsewhere in this Order, the Board shall perform the following functions of a Member State or its competent authorities or bodies which derive from the Directive—

- (a) under article 8 of the Directive—

- (i) the function of assessing the content and duration of specialist training of an EEA national who holds a specialist qualification awarded by a Member State in a specialty in which the United Kingdom does not award a CCT,
  - (ii) the function of taking into account the content and duration of the specialist training of the person concerned, together with that person's professional experience, additional training and continuing medical education, in determining what, if any, additional training that person must complete in order to obtain a CCT in a specified United Kingdom specialty,
  - (iii) the function of communicating its decision to the person concerned within four months of the date on which that person submits his application for a CCT, together with full supporting documentation, and
  - (iv) the function of awarding CCTs to EEA nationals in accordance with the requirements of article 8;
- (b) where required to do so by another EEA State, the function of issuing certificates to specialists as set out in article 9(2) of the Directive, which requires certificates to be issued to persons holding a specialist qualification that does not satisfy all the minimum training requirements laid down by the Directive and was awarded following training begun before the relevant date (which has the same meaning as in article 15(2)), where either—
- (i) that qualification was awarded by the United Kingdom, or
  - (ii) the person holding that qualification has subsequently become established in the United Kingdom,
- stating that, where applicable, the holder has been engaged in the practice of his specialty for at least the period required by article 9(2) of the Directive;
- (c) the function of issuing certificates of fulfilment of Directive training requirements in respect of specialist qualifications which do not conform with the designations set out in the Directive; and
- (d) where a request is received from another Member State, the function of confirming authenticity of a CCT and of confirming that a person holding a CCT has fulfilled the Directive's minimum training requirements.

## **PART 6**

### **APPEALS**

#### **Appeal to an Appeal Panel against a decision of the Board**

**21.**—(1) The Board shall secure that a person falling within paragraph (2)(a) to (k) has the right of appeal against the decision, act or omission specified in that paragraph to a panel of independent persons (in this article referred to as “an Appeal Panel”), which shall be convened by the Board as soon as practicable.

(2) Paragraph (1) applies to—

- (a) any hospital, institution or other person who satisfies an Appeal Panel that it (or he) has a substantial interest in a decision relating to the approval of education and training leading to the award of a CCT pursuant to article 4(5) where the Board has—
  - (i) refused to approve that education and training (other than by virtue of a restriction imposed by rules it has made under article 4(10) by virtue of article 4(11)),
  - (ii) approved that education and training subject to conditions under article 4(7), or

- (iii) withdrawn approval from that education and training—
    - (aa) under article 4(8) (other than by virtue of a restriction imposed by rules it has made under article 4(10) by virtue of article 4(11)), or
    - (bb) under article 9(4).
  - (b) a general practitioner—
    - (i) whom the Board has refused to approve under article 4(5)(d),
    - (ii) whom the Board has approved subject to conditions imposed under article 4(7), or
    - (iii) from whom the Board has withdrawn approval under article 4(8);
  - (c) a person to whom the Board refuses to award a CCT pursuant to article 8;
  - (d) a person whose CCT the Board withdraws pursuant to article 8(12);
  - (e) a person who fails to satisfy the Board that he is an eligible general practitioner in accordance with article 11(3);
  - (f) a person to whom the Board fails to give a decision under article 11(3) within three months of the date on which the applicant submits his application, together with full supporting documentation;
  - (g) a person who fails to satisfy the Board that he is an eligible specialist in accordance with article 14(4) or (5);
  - (h) a person to whom the Board fails to give a decision under article 14(4) or (5) within three months of the date on which the applicant submits his application, together with full supporting documentation;
  - (i) a person to whom the Board refuses to award a CCT when exercising its functions specified in article 20(3)(a);
  - (j) a person who has made an application to the Board as a consequence of its functions specified in article 20(3)(a) and to whom it fails to give a decision within the time period specified in article 20(3)(a)(iii); and
  - (k) a person to whom the Board refuses to award a certificate of acquired rights under article 12(3).
- (3) The right of appeal under sub-paragraph (e), (g) and (i) of paragraph (2) shall include a right of appeal against a decision of the Board as to the length of additional training, the fields to be covered by it or any examination, assessment (including a specified period of assessment) or other test of competence that the Board has specified under article 11(5), 14(9) or 20(3)(a)(ii).
- (4) Subject to paragraph (5), having considered an appeal under this article, an Appeal Panel may—
- (a) dismiss the appeal;
  - (b) allow the appeal and quash the decision appealed against;
  - (c) substitute for the decision appealed against any other decision that the Board could have made; or
  - (d) remit the case to the Board to be disposed of in accordance with the directions of the Appeal Panel.
- (5) Where an appeal is made under sub-paragraph (f), (h) or (j) of paragraph (2), an Appeal Panel may, having considered the appeal—
- (a) dismiss the appeal; or
  - (b) allow the appeal and—
    - (i) direct the Board to take a decision within a specified time, or

(ii) make any decision that the Board could have made.

(6) The Board shall make rules as to the procedure to be followed and the rules of evidence to be observed by an Appeal Panel hearing an appeal under this article.

(7) Rules made under paragraph (6), shall in particular provide—

- (a) for the period within which a person is permitted to appeal to the Appeal Panel against a decision, act or omission of the Board;
- (b) for the Board to maintain a list of persons who may be appointed to an Appeal Panel;
- (c) for an Appeal Panel to consist of three members and a chair;
- (d) for two members of an Appeal Panel to be registered medical practitioners, and for one member to be a person who is not and never has been a registered medical practitioner, and who does not hold any qualification that is registrable under the Medical Act;
- (e) for the chair of an Appeal Panel to be legally qualified and to—
  - (i) have a 10 year general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990<sup>(17)</sup> (qualification for judicial and certain other appointments);
  - (ii) be an advocate or solicitor in Scotland of at least 10 years' standing, or
  - (iii) be a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 10 years' standing;
- (f) that no person who is a member of the Board, the statutory committees or any other committee of the Board, may be appointed to an Appeal Panel;
- (g) that proceedings of an Appeal Panel shall take place in public unless the person or body who is appealing requests a private hearing; and
- (h) that an Appeal Panel shall give reasons for its decision.

(8) The Board may pay such allowances and expenses to persons appointed to an Appeal Panel as it may determine.

### **Appeal to a court or sheriff against a decision of an Appeal Panel**

**22.**—(1) An appeal from any decision of an Appeal Panel shall lie to the relevant court but must be brought within 28 days beginning with the date on which the appellant was notified of the decision.

(2) In any appeal under this article, the Board shall be the respondent.

(3) Subject to paragraph (4), the relevant court may—

- (a) dismiss the appeal;
- (b) allow the appeal and quash the decision appealed against;
- (c) substitute for the decision appealed against any other decision the Board could have made;  
or
- (d) remit the case to the Board to be disposed of in accordance with the directions of the court or sheriff,

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

(4) Where the appeal is against a decision of an Appeal Panel made under article 21(5), the relevant court may—

- (a) dismiss the appeal; or

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(17) 1990 c. 41.

- (b) allow the appeal and—
  - (i) remit the case to the Board to be disposed of in accordance with directions of the court or sheriff, or
  - (ii) make any decision that the Board could have made.

(5) In this article, “relevant court” means the county court or in the case of a hospital, institution, general practitioner or person whose address is in Scotland, the sheriff in whose sheriffdom the address is situated.

### **Appeals against decisions on inclusion in the Registers**

**23.**—(1) If a person applies to the Registrar of the GMC in order to have his name included in the General Practitioner Register or the Specialist Register pursuant to article 10(3) or 13(3), and—

- (a) he satisfies the Registrar of the GMC that he is a registered medical practitioner pursuant to article 10(3)(b) or 13(3)(b); but
- (b) his application for inclusion in either of the Registers is unsuccessful because he fails to satisfy the Registrar of the GMC that he is an eligible general practitioner or eligible specialist pursuant to article 10(3)(a) or 13(3)(a),

the decision of the Registrar shall be treated as an appealable registration decision under Schedule 3A to the Medical Act (registration appeals) and the procedure in that Schedule shall accordingly apply.

(2) Failure by the GMC to notify a person of the matters specified in article 16(1) within the time specified in article 16(2) or, where applicable, article 16(4) shall be treated as a decision against which a person may appeal under paragraph 4 of Schedule 3A to the Medical Act.

## **PART 7**

### **MISCELLANEOUS**

#### **Fees**

**24.**—(1) The Board and the GMC may each charge reasonable fees to cover the cost of providing services in the course of the performance of any of its functions under or by virtue of this Order.

(2) The Board and the GMC may each set those fees at levels such that the fees also cover the cost of such of its overheads as are reasonably attributable to the performance of its functions under or by virtue of this Order, but the fees must not include any element of profit.

(3) The fee charged by the Board or the GMC for any particular service must not include more than a reasonable proportion of the total cost of its overheads referred to in paragraph (2).

(4) This article does not prevent the GMC, where it has power to do so, from setting any other fee which it has power to charge at a level designated to include costs referred to in this article, but any costs recovered that way cannot also be recovered by way of fees under this article.

(5) If the Board or the GMC charges any fee in accordance with paragraph (1), it shall specify the amount of the fee in rules.

#### **Rules and orders**

**25.**—(1) Any rules made by the Board or the GMC under this Order may make different provision with respect to different cases or classes of case or in respect of different areas of the United Kingdom.

(2) Rules made under article 24 or paragraph 2(3) of Schedule 2 shall not come into force until approved by order by the Secretary of State but the Secretary of State shall not approve these rules unless he has consulted—

- (a) the Scottish Ministers;
- (b) the Department of Health, Social Services and Public Safety in Northern Ireland; and
- (c) the National Assembly for Wales.

(3) Except for rules made under article 24 or paragraph 2(3) of Schedule 2, the Board shall publish rules made under this Order (electronically or otherwise).

(4) The power of the Secretary of State to make an order under this Order, including an order made under paragraph (2), 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(18) this provision shall have effect as if contained in an Act of Parliament.

### **Default powers of the Secretary of State**

**26.**—(1) If it appears to the Secretary of State that the Board has failed to perform any function which, in the opinion of the Secretary of State, should have been performed by it, the Secretary of State may notify the Board of his opinion and require the Board to make representations to him.

(2) The Secretary of State may, having considered the representations of the Board, give such directions (if any) to the Board as he considers appropriate.

(3) If the Board fails to comply with any directions given under this article, the Secretary of State may give effect to the direction.

(4) For the purpose of giving effect to a direction under paragraph (3), the Secretary of State may—

- (a) exercise any power of the Board or do any act or other thing authorised to be done by the Board; and
- (b) do, of his own motion, any act or other thing which he is otherwise authorised to do under this Order at the instigation of the Board.

(5) The Secretary of State shall not take any action pursuant to paragraphs (1) to (4) unless he has consulted—

- (a) the Scottish Ministers;
- (b) the Department of Health, Social Services and Public Safety in Northern Ireland; and
- (c) the National Assembly for Wales.

### **Annual reports**

**27.**—(1) The Board shall—

- (a) within such time as directed by the Secretary of State, submit a report to him on the Board's exercise of its functions during the period specified by the Secretary of State; and
- (b) thereafter submit such a report once in each calendar year in respect of the period since its last such report.

(2) Within the times specified in paragraph (1), the Board shall also send a copy of the report to the Scottish Ministers, the Department of Health, Social Services and Public Safety in Northern Ireland and the National Assembly for Wales.

(3) The Secretary of State shall lay before each House of Parliament a copy of every report submitted to him by the Board under paragraph (1).

(4) A copy of the report shall also be laid before—

(a) the Scottish Parliament by the Scottish Ministers;

(b) the Northern Ireland Assembly by the Department of Health, Social Services and Public Safety in Northern Ireland,

and the National Assembly for Wales shall publish the report.

### **Review of the Board's exercise of its functions**

**28.**—(1) The Secretary of State shall ensure that a full review of the Board's exercise of its functions under this Order is carried out once in every five year period.

(2) A review under paragraph (1) shall be undertaken by a body appointed by the Secretary of State for that purpose.

(3) A body appointed under paragraph (2) shall produce a written report on its review of the Board's exercise of its functions.

(4) The first review shall take place within five years of the date of this article coming into force and thereafter a review shall take place once in every five year period following on from when the last review was carried out.

(5) The Secretary of State shall lay before each House of Parliament a copy of every report produced under paragraph (3).

(6) A copy of the report shall also be laid before—

(a) the Scottish Parliament by the Scottish Ministers;

(b) the Northern Ireland Assembly by the Department of Health, Social Services and Public Safety in Northern Ireland,

and the National Assembly for Wales shall publish the report.

### **Accounts of the Board**

**29.**—(1) The Board shall—

(a) keep accounts in such form as the Secretary of State may determine; and

(b) prepare annual accounts in respect of each financial year, in such form as the Secretary of State may determine.

(2) The annual accounts shall be audited by persons whom the Board appoints.

(3) No person may be appointed as an auditor under paragraph (2) unless he is eligible for appointment as a company auditor under section 25 of the Companies Act 1989<sup>(19)</sup> (eligibility for appointment) or Article 28 of the Companies (Northern Ireland) Order 1990<sup>(20)</sup> (eligibility for appointment).

(4) As soon as is reasonably practicable after the end of the financial year to which the annual accounts relate, the Board shall—

(a) cause them to be published together with any report on them made by the auditors; and

(b) send a copy of the annual accounts and of any such report to—

(i) the Secretary of State,

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<sup>(19)</sup> 1989 c. 40.

<sup>(20)</sup> S.I. 1990/593 (N.I. 5).



- (ii) the Comptroller and Auditor General,
- (iii) the Scottish Ministers,
- (iv) the Department for Health, Social Services and Public Safety in Northern Ireland,  
and
- (v) the National Assembly for Wales.

(5) The Comptroller and Auditor General shall examine, certify and report on the annual accounts.

(6) For the purposes of his examination, the Comptroller and Auditor General may inspect the accounts of the Board and any records relating to them.

(7) The Secretary of State shall lay before each House of Parliament a copy of the annual accounts certified by the Comptroller and Auditor General, any report of the auditors and the report of the Comptroller and Auditor General prepared under paragraph (5).

(8) A copy of the annual accounts (and the reports mentioned in paragraph (7)) shall be laid before—

- (a) the Scottish Parliament by the Scottish Ministers;
- (b) the Northern Ireland Assembly by the Department of Health, Social Services and Public Safety in Northern Ireland,

and the National Assembly for Wales shall publish the accounts (and the aforementioned reports).

(9) In this article, “financial year” means—

- (a) the period beginning with the date on which the Board is established and ending with the next 31st March following that date; and
- (b) each successive period of 12 months ending with 31st March.

### **Amendment to the Medical Act and the Medical Act 1983 (Amendment) Order 2002**

**30.**—(1) In the Medical Act—

- (a) in section 40 (Appeals), for sub-paragraph (9) there shall be substituted—

“(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 any order as to costs (or, in Scotland, expenses) in relation to any such appeal the Council shall be deemed to be a party thereto, whether they appear on the hearing of the appeal or not.”; and

- (b) in paragraph 11 of Schedule 6 to the Medical Act (transitional and savings provisions), at the end of sub-paragraphs (1) and (2), there shall be added “who holds a licence to practise”.

(2) In Part I of Schedule 1 to the Medical Act 1983 (Amendment) Order 2002(21) (consequential amendments to primary legislation), paragraph 1 shall be omitted.

### **Extent, transitional, transitory, saving and consequential provisions**

**31.**—(1) Subject to paragraphs (2) and (3), this Order extends to the whole of the United Kingdom.

(2) Subject to paragraph (3), the extent of the amendment or revocation of any enactment in Schedule 9 or Schedule 10 is the same as that of the amended or revoked enactment.

(3) In Schedule 10, paragraph 1(c)(i) shall apply only to England and paragraph 1(c)(ii) shall apply only to Wales.

- (4) The transitional, transitory and saving provisions contained in Schedule 8 shall apply.
- (5) The consequential amendments and revocations contained in Schedules 9 and 10 shall have effect.
- (6) The Secretary of State may by order make such further transitional, transitory or saving provisions as he considers appropriate.

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

## SCHEDULE 1

## Article 2

### INTERPRETATION

In this Order—

- “1977 Act” means the National Health Service Act 1977**(22)**;
- “1978 Act” means the National Health Service (Scotland) Act 1978**(23)**;
- “1997 Act” means the National Health Service (Primary Care) Act 1997**(24)**;
- “Appeal Panel” has the meaning assigned to it in article 21(1);
- “the Board” means the Postgraduate Medical Education and Training Board;
- “certificate of acquired rights” means a certificate issued under article 36(4) of the Directive, to the effect that its holder has an acquired right to practise as a general practitioner under the national social security scheme of the issuing State without a vocational training certificate in general practice;
- “certificate of equivalent experience” means a certificate issued by the JCPTGP pursuant to—
- (a) regulation 12 of the Vocational Training Regulations (certificate of equivalent experience) and includes for the purposes of article 11(1)(c) a certificate of equivalent experience issued under the National Health Service (Vocational Training) Regulations 1979**(25)**;
  - (b) regulation 12 of the Vocational Training Regulations (Scotland) (certificate of equivalent experience) and includes for the purposes of article 11(1)(c) a certificate of equivalent experience issued under the National Health Service (Vocational Training) (Scotland) Regulations 1980**(26)**;
  - (c) regulation 12 of the Vocational Training Regulations (Northern Ireland) (certificate of equivalent experience) and includes for the purposes of article 11(1)(c) a certificate of equivalent experience issued under the Medical Practitioners (Vocational Training) Regulations (Northern Ireland) 1979**(27)**,
- or a certificate issued by the Board, in accordance with those provisions, pursuant to the transitional, transitory, and saving provisions in Schedule 8;
- “certificate of prescribed experience” means a certificate issued by the JCPTGP pursuant to—
- (a) regulation 10 of the Vocational Training Regulations (certificate of prescribed experience) and includes for the purposes of article 11(1)(b) a certificate of equivalent experience issued under the National Health Service (Vocational Training) Regulations 1979**(28)**;
  - (b) regulation 10 of the Vocational Training Regulations (Scotland) (certificate of prescribed experience) and includes for the purposes of article 11(1)(b) a certificate of equivalent experience issued under the National Health Service (Vocational Training) (Scotland) Regulations 1980**(29)**;
  - (c) regulation 10 of the Vocational Training Regulations (Northern Ireland) (certificate of prescribed experience) and includes for the purposes of article 11(1)(b) a certificate

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**(22)** 1977 c. 49.

**(23)** 1978 c. 29.

**(24)** 1997 c. 46.

**(25)** S.I. 1979/1644. These Regulations were revoked by S.I. 1997/2817.

**(26)** S.I. 1980/30. These Regulations were revoked by S.I. 1998/5.

**(27)** S.R. 1979 No. 460. These Rules were revoked by S.R. 1998 No.13.

**(28)** S.I. 1979/1644. These Regulations were revoked by S.I. 1997/2817.

**(29)** S.I. 1980/30. These Regulations were revoked by S.I. 1998/5.

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

of equivalent experience issued under the Medical Practitioners (Vocational Training) Regulations (Northern Ireland) 1979<sup>(30)</sup>,

or a certificate issued by the Board, in accordance with those provisions, pursuant to the transitional, transitory, and saving provisions in Schedule 8;

“competent authority”, in relation to an EEA State, means the authority or body designated by that State as competent for the relevant purposes of the Directive;

“consultant in the National Health Service” means a consultant other than a locum consultant (but including an honorary consultant) employed for the purposes of providing any service as part of the National Health Service;

“CCT” means Certificate of Completion of Training awarded under article 8, including any such certificate awarded in pursuance of the Board’s competent authority functions specified in article 20(3)(a);

“CCST” means a Certificate of Completion of Specialist Training awarded by the STA under the ESMQO 1995 or a Certificate of Completion of Specialist Training issued by the Board, in accordance with the provisions of the ESMQO 1995, pursuant to the transitional, transitory, and saving provisions in Schedule 8;

“the Directive” means Council Directive 93/16/EEC of 5th April 1993 to facilitate the free movement of doctors and the mutual recognition of their diplomas, certificates and other evidence of formal qualifications<sup>(31)</sup>—

- (a) as adapted by paragraph 4(b), (c) and (d) of Annex VII to the EEA Agreement (where the specialist medical qualifications awarded in certain EEA States<sup>(32)</sup> and the names given to specialities in those States are set out); and
- (b) as amended by—
  - (i) the Act annexed to the Treaty relating to the accession of the Kingdom of Norway, the Republic of Austria, the Republic of Finland and the Kingdom of Sweden signed at Corfu on 24th June 1994<sup>(33)</sup>, as adjusted by the Decision of the Council of the European Union of 1st January 1995 adjusting the instruments concerning the accession of new Member States to the European Union<sup>(34)</sup>,
  - (ii) Council Directive 97/50/EC<sup>(35)</sup>, Commission Directive 98/21/EC<sup>(36)</sup>, Commission Directive 98/63/EC<sup>(37)</sup>, Commission Directive 1999/46/EC<sup>(38)</sup> and Directive 2001/19/EC<sup>(39)</sup>, and
  - (iii) the Agreement between the European Community and its Member States of the one part, and the Swiss Confederation, of the other, on the free movement of persons, signed at Luxembourg on 21st June 1999;

“EEA” means European Economic Area which shall be read as including Switzerland;

“EEA Agreement” means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 <sup>(40)</sup> as adjusted by the Protocol signed at Brussels on 17th March 1993<sup>(41)</sup>,

<sup>(30)</sup> S.R. 1979 No. 460. These Rules were revoked by S.R. 1998 No. 13.

<sup>(31)</sup> O.J. No. L165, 7.7.1993, p. 1. This Directive is a consolidation of the earlier Directives as indicated in Annex IV to the Directive, and was applied to EEA States other than members of the EC by Decision No. 7/94 of the EEA Joint Committee of 21 March 1994 (O.J. No. L 160, 28.6.94, p. 1).

<sup>(32)</sup> These States are Austria, Finland, Iceland, Liechtenstein, Norway and Sweden.

<sup>(33)</sup> O.J. No. C241, 29.8.84, p. 21. Norway did not ratify the Treaty.

<sup>(34)</sup> O.J. No. L1, 1.1.1995, p. 1.

<sup>(35)</sup> O.J. No. L291, 24.1.1997, p. 35.

<sup>(36)</sup> O.J. No. L119, 22.4.98, p. 15.

<sup>(37)</sup> O.J. No. L253, 15.9.98, p. 24.

<sup>(38)</sup> O.J. No. L139, 2.6.99, p. 25.

<sup>(39)</sup> O.J. No. L206, 31.7.2001, p. 1.

<sup>(40)</sup> O.J. No. L 1, 3.1.1994, p. 3.

<sup>(41)</sup> O.J. No. L 1, 3.1.1994, p. 572.

as amended by Decisions of the EEA Joint Committee Nos. 190/1999 of 17th December 1999(42), 89/2000 of 27th October 2000(43) and 84/2002 of 25th June 2002(44);

“EEA State” means a Contracting Party to the EEA Agreement or Switzerland;

“ESMQO 1995” means the European Specialist Medical Qualifications Order 1995(45);

“fee” shall be construed in accordance with article 24;

“general practitioner” means a general medical practitioner;

“GMC” means the General Medical Council;

“General Practitioner Register” means the register maintained by the GMC pursuant to article 10(1);

“GP Registrar” has the meaning assigned to it in article 5(5);

“GP Trainer” has the meaning assigned to it in article 5(4);

“JCPTGP” means the Joint Committee on Postgraduate Training for General Practice;

“Medical Act” means the Medical Act 1983(46);

“National Health Service” means the health services established in pursuance of the National Health Service Act 1946, the National Health Service (Scotland) Act 1947 or any health services provided in pursuance of article 4(a) of the Health and Personal Social Services (Northern Ireland) Order 1972(47);

“prescribed” means prescribed in rules made by the Board;

“registered dentist” has the same meaning as in the Dentists Act 1984(48);

“the Registers” means the General Practitioner Register and the Specialist Register;

“restricted services principal” means the same as in the National Health Service (General Medical Services) Regulations 1992(49), the National Health Service (General Medical Services) (Scotland) Regulations 1995(50), or the General Medical Services Regulations (Northern Ireland) 1997(51), as the case may be;

“the 1994 Regulations” means the Vocational Training for General Medical Practice (European Requirements) Regulations 1994(52);

“Specialist Register” means the register maintained by the GMC pursuant to article 13(1);

“statement of eligibility for registration” has the meaning assigned to it in article 11(7) for general practitioners and article 14(11) for specialist medical practitioners;

“statutory committees” has the meaning assigned to it in article 3(8);

“STA” means the Specialist Training Authority of the medical Royal Colleges;

“United Kingdom country” means England, Scotland, Wales or Northern Ireland;

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(42) O.J. No. L74, 15.3.2001, p. 26.

(43) O.J. No. L7, 11.1.2001, p. 9.

(44) O.J. No. L266, 3.10.2002, p. 36. The Agreement has also been amended by other decisions which are not relevant to the Directive.

(45) S.I. 1995/3208, relevant amendments to which were made by S.I. 1997/2928, 1999/1373 and 3154, and 2002/849.

(46) 1983 c. 54; as amended by: the Medical (Professional Performance) Act 1995 (c. 51); the National Health Service (Primary Care) Act 1997 (c. 46); the National Health Service Reform and Health Care Professions Act 2002 (c. 17); and S.I. 1986/23, 1996/1591, 2000/1803, 2000/3041 and 2002/3135.

(47) S.I. 1972/1265 (NI).

(48) 1984 c. 24.

(49) S.I. 1992/635.

(50) S.I. 1995/416.

(51) S.R. 1997 No. 380.

(52) S.I. 1994/3130.

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“vocational training certificate” means a diploma, certificate or other evidence of formal qualifications awarded on completion of a course of specific training in general medical practice and referred to in Article 30 of the Directive;

“Vocational Training Regulations” means the National Health Service (Vocational Training for General Medical Practice) Regulations 1997<sup>(53)</sup>;

“Vocational Training Regulations (Northern Ireland)” means the Medical Practitioners (Vocational Training) Regulations (Northern Ireland) 1998<sup>(54)</sup>; and

“Vocational Training Regulations (Scotland)” means the National Health Service (Vocational Training for General Medical Practice) (Scotland) Regulations 1998<sup>(55)</sup>.

## SCHEDULE 2

Article 3(6) and (10)

### THE POSTGRADUATE MEDICAL EDUCATION AND TRAINING BOARD AND ITS STATUTORY COMMITTEES

#### PART 1

#### THE BOARD

##### *Membership*

1.—(1) The Board shall consist of twenty-five members, and those members shall fall into one of the following categories—

- (a) members whose names are included in the register of medical practitioners maintained by the GMC under section 2 of the Medical Act (registration of medical practitioners) and who are referred to in this Schedule as “medical members”; or
- (b) members who—
  - (i) are not and never have been registered medical practitioners, and
  - (ii) do not hold any qualification that is registrable under the Medical Act, and who are referred to in this Schedule as “lay members”.

(2) The number of medical members shall exceed by at least one the number of lay members.

(3) The Scottish Ministers, the Department of Health, Social Services and Public Safety in Northern Ireland and the National Assembly for Wales shall each appoint one medical member and one lay member to the Board and the Secretary of State shall appoint the remaining members (together the appointors are referred to as “the appointing authorities”).

(4) The Secretary of State shall ensure that of the members he appoints—

- (a) at least one member is appointed from amongst persons who have been nominated by the GMC; and
- (b) at least six medical members are appointed from amongst registered medical practitioners who have been nominated by a body that appears to him to represent the medical Royal Colleges in the United Kingdom (referred to in this paragraph as “the representative body”).

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<sup>(53)</sup> S.I. 1997/2817, relevant amendments to which were made by S.I. 1998/669.

<sup>(54)</sup> S.R. 1998 No. 13.

<sup>(55)</sup> S.I. 1998/5, relevant amendments to which were made by S.I. 1998/669 and S.I. 2000/23.

(5) The Secretary of State shall, prior to appointing a member pursuant to sub-paragraph (4), make a request in writing to the GMC or the representative body (as the case may be) for a list of names of persons that the GMC or the representative body wishes to nominate, specifying in that request—

- (a) the number of nominations required; and
- (b) the date by which those nominations are required.

(6) The requirements in sub-paragraph (4)(a) or (b) (as the case may be) shall not apply if the GMC or the representative body fails to provide the number of nominations specified pursuant to sub-paragraph (5)(a) by the date specified pursuant to sub-paragraph (5)(b).

(7) The requirement in sub-paragraphs (4)(b) and (5) (insofar as it applies to the representative body) shall not apply if in the reasonable opinion of the Secretary of State, there is no one body that represents the medical Royal Colleges in the United Kingdom.

(8) Subject to the requirements of this paragraph, the appointing authorities shall—

- (a) consult such persons as they consider appropriate before appointing any member; and
- (b) appoint members from among persons who have such qualifications, interests and experience as, in the opinion of that authority, will be of value to the Board in the performance of its functions.

(9) No person shall be prevented from being appointed merely because he has previously been a member of the Board.

(10) Where a member ceases to be a member, the appointing authority that appointed him shall appoint a member to replace him.

(11) Subject to sub-paragraph (12), if the unexpired term is less than twelve months, the vacancy need not be filled if the Board consents.

(12) The vacancy must be filled if the vacancy would result in the requirement in sub-paragraph (2) not being satisfied.

(13) In this paragraph “the unexpired term” means the period beginning with the date on which the member ceases to be a member and ending with the date on which his full term of office would have expired.

(14) On a proposal from the Board or otherwise, the Secretary of State may by order vary the size or composition of the Board provided that—

- (a) the number of medical members always exceeds by at least one the number of lay members; and
- (b) the Scottish Ministers, the Department of Health, Social Services and Public Safety in Northern Ireland and the National Assembly for Wales shall always each appoint at least one medical member and one lay member to the Board.

#### *Tenure of office of members*

2.—(1) Subject to sub-paragraph (2), each member’s term of office will be for a period of three years.

(2) For the initial membership of the Board, the appointing authority may determine the duration of the first term of office of each member, save that the term of office shall not be less than three years and it shall not exceed five years.

(3) A person shall be removed from office as a Board member in such circumstances as may be provided for by the Board in rules.

(4) A member may resign at any time by giving notice in writing to the Board and to the appointing authority that appointed him.

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(5) Every member shall retire from the Board on reaching the age of 70.

*The chair*

**3.—(1)** Subject to sub-paragraph (3), the members of the Board shall elect a chair from among themselves.

(2) Subject to sub-paragraph (3), the term of office of the chair shall be three years.

(3) The first chair shall be appointed by the Secretary of State and his term of office shall be five years.

(4) Subject to sub-paragraph (5), the chair shall hold office until whichever of the following first occurs—

- (a) he resigns as chair by giving notice in writing to the Secretary of State and the Board;
- (b) he ceases to be a member of the Board; or
- (c) he is removed as chair by a majority vote of the other members of the Board.

(5) The first chair cannot be removed by a majority vote of other members of the Board under sub-paragraph (4)(c) but he may be removed from office by the Secretary of State if—

- (a) he ceases to live or work wholly or mainly in the United Kingdom;
- (b) there is a change in his qualifications, interests or experience such that it appears to the Secretary of State that he will no longer contribute to the Board's exercise of its functions in such manner as justifies his continued chairmanship; or
- (c) there is, in the opinion of the Secretary of State, a serious and persistent deficiency in his attendance at meetings, or in his conduct or performance at meetings of the Board or otherwise.

(6) If the first chair ceases to hold office under sub-paragraphs (4)(a) or (b) or (5), the Secretary of State shall appoint a successor for the unexpired term.

(7) In sub-paragraph (6), “unexpired term” means the period beginning with the date on which the chair ceases to be the chair and ending with the date on which his full term of office as chair under sub-paragraph (3) would have expired.

(8) Subject to sub-paragraph (9), a person shall not be prevented from being elected chair merely because he has previously been chair.

(9) If a period of eight years has elapsed, beginning with his assuming office as chair, and no other person has been appointed or elected (and served) as chair during that time, that person may not be elected as chair until some other person has served as chair.

*Delegation of appointment of members and the first chair*

**4.—(1)** The Secretary of State may direct a Special Health Authority to exercise his functions of appointing—

- (a) members of the Board under paragraph 1(3), including members appointed pursuant to paragraph 1(4); or
- (b) the first chair under paragraph 3(3) or (6),

or to assist him in the exercise of such parts of those functions to the extent specified in his direction.

(2) If the Secretary of State does direct a Special Health Authority pursuant to sub-paragraph (1), the 1977 Act has effect as if—

- (a) the directions were directions of the Secretary of State under section 16D of that Act; and accordingly



- (b) the function were exercisable by the Special Health Authority under section 16D.

#### *Observers*

**5.—**(1) The Secretary of State, the Scottish Ministers, the Department for Health, Social Services and Public Safety in Northern Ireland and the National Assembly for Wales may each nominate a representative to attend meetings of the Board.

(2) A representative nominated under paragraph (1) shall not address the Board unless he is invited or requested to do so by the chair of the Board or otherwise has the permission of the Board to address it.

#### *Grants and loans to the Board*

**6.—**(1) The Secretary of State or an appropriate authority may make grants or loans to the Board towards expenses incurred, or to be incurred by it—

- (a) in connection with the process of the implementation of this Order; or
- (b) for such other purposes in connection with the functions of the Board under this Order as may be approved by the Secretary of State or the appropriate authority and agreed with the Board.

(2) In this paragraph, an “appropriate authority” means the Scottish Ministers, the Department of Health, Social Services and Public Safety in Northern Ireland or the National Assembly for Wales.

#### *Procedure of the Board and its committees*

**7.** Subject to any provision made by or under this Order, the Board may regulate its own procedures.

#### *Members' interests*

**8.** The Board shall—

- (a) establish and maintain a system for the declaration and registration of private interests of its members and other members of its committees and sub-committees; and
- (b) publish entries recorded in the resulting register.

#### *Complaints*

**9.** The Board shall establish and maintain a system for resolving complaints made to the Board about the performance of any of its functions under this Order and the Board shall make rules as to how such a system will operate.

#### *Powers of the Board*

**10.—**(1) Subject to any provision made by or under this Order, the Board may do anything which appears to it to be necessary or expedient for the purpose of, or in connection with, the performance of its functions.

(2) The Board shall, in particular, have power—

- (a) to borrow;
- (b) to appoint such staff as it may determine;
- (c) to pay its staff such salaries, allowances and expenses as it may determine;

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- (d) to arrange for the discharge of any of its functions, other than a power to make rules, by its staff or members of the Board;
  - (e) to make such provision for the payment of such pensions, allowances or gratuities, or of such contributions or payments towards provision for such pensions, allowances or gratuities, to or in respect of its staff as it may determine;
  - (f) to make such provision in respect of its members and members of its committees and sub-committees as it may determine—
    - (i) for the payment of allowances or remuneration, including the payment of allowances to employers of such members for the purposes of enabling the members to perform functions under this Order,
    - (ii) for the reimbursement of such expenses as the members may reasonably have incurred in the course of carrying out their functions under this Order;
  - (g) to establish such committees, and sub-committees of its committees, as it considers appropriate in connection with the discharge of its functions and to delegate any of its functions to them other than any power to make rules;
  - (h) to appoint persons who are not members of the Board to any committee or sub-committee it establishes;
  - (i) subject to any provision made by or under this Order, to regulate the procedure of any of its committees or their sub-committees; and
  - (j) to abolish any of its committees (except a statutory committee), or any sub-committee of its committees.
- (3) The Board shall ensure that persons appointed to any committee or sub-committee who are not Board members shall have such qualifications, interests or experience as, in the opinion of the Board, are relevant to the field with which the committee or sub-committee is mainly concerned.
- (4) If it appears to the Board that any committee or sub-committee is failing to perform its functions adequately, the Board may give a direction as to the proper performance of those functions.
- (5) The powers of the Board may be exercised even though there is a vacancy among its members.
- (6) No proceedings of the Board shall be invalidated by any defect in the appointment of a member.
- (7) No person who is a member of the Board or any of its committees or sub-committees who is also a registered medical practitioner may take part in any proceedings of the Board in any period during which he is the subject of any investigation, proceedings or a determination concerning his fitness to practise his profession.

## **PART 2**

### **THE STATUTORY COMMITTEES**

#### *The Training Committee*

- 11.**—(1) The Training Committee shall advise and make recommendations to the Board on—
- (a) the standards required for entry to training in general practice or specialist practice;
  - (b) the training curricula to be followed in general practice and for each of the specialties specified in Schedule 3; and
  - (c) such other matters relating to postgraduate medical education and training for general medical practice and specialist practice as the Board may request.

(2) The Board may delegate such of its functions to the Training Committee, or sub-committees of that Committee, as it considers appropriate, other than any power to make rules.

*The Assessment Committee*

**12.**—(1) The Assessment Committee shall advise and make recommendations to the Board on—

- (a) the assessment of those undertaking education and training in general practice and specialist medical practice;
- (b) the assessment of persons applying to the Board under article 11(3), 14(4) or 14(5);
- (c) the outcomes to be achieved by education and training in general practice or specialist medical practice, including the levels of skill, knowledge and expertise to be achieved;
- (d) the examinations, assessments and other tests of competence to be completed, whether during or upon completion of a course of education and training in general practice or specialist medical practice; and
- (e) such other matters relating to the assessment of education and training in general practice or specialist medical practice as the Board may request.

(2) The Board may delegate such of its functions to the Assessment Committee, or sub-committees of that Committee, as it considers appropriate, other than any power to make rules.

*Procedure of the statutory committees*

**13.**—(1) The Board shall make rules in respect of the statutory committees, and sub-committees of the statutory committees, which shall provide in particular for—

- (a) their composition;
- (b) the appointment of members to the committees, including persons who are not members of the Board;
- (c) subject to the requirements of this Order (and any order made under article 3(11)(b)), their functions;
- (d) the quorum at meetings;
- (e) the procedure to be followed; and
- (f) standards for the attendance and performance of members.

(2) The rules shall, in particular, provide for the chair of a statutory committee to be a medical member of the Board.

(3) In making rules under this paragraph in relation to the appointment of members to the statutory committees and sub-committees of the statutory committees, the Board shall, insofar as it is reasonably practicable, provide for representation on that committee or sub-committee of such of the medical Royal Colleges in the United Kingdom as the Board considers appropriate, having regard to the functions of that committee or sub-committee.

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**SCHEDULE 3**

Article 4(1), (4), (6) and (11), 6(1)(a)(vii),  
8(5), 13(2)(a), 14(1) and (4) and 15(1)

**SPECIALTIES IN WHICH THE UK AWARDS A  
CCT, AND ANY MINIMUM TRAINING PERIODS**

**PART 1**

**SPECIALTIES WITH MINIMUM TRAINING PERIODS**

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**Five years**

Accident and emergency medicine  
General (internal) medicine\* (*formerly known as general medicine*)  
General surgery\*  
Neurosurgery\* (*formally known as neurological surgery*)  
Trauma and orthopaedic surgery\* (*formally known as orthopaedic surgery*)  
Paediatric surgery  
Plastic surgery\*  
Cardio-thoracic surgery (*formerly known as thoracic surgery*)  
Urology\*

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**Four years**

Cardiology (*formerly known as cardio-vascular disease*)  
Chemical pathology (also known as clinical biochemistry)  
Child and adolescent psychiatry  
Clinical neurophysiology  
Clinical pharmacology and therapeutics  
Infectious diseases (*formerly known as communicable diseases*)  
Public health medicine (*formerly known as community medicine*)  
Dermatology  
Clinical radiology\* (*formerly known as diagnostic radiology, and as radiology*)  
Gastro-enterology  
Geriatric medicine (*formerly known as geriatrics*)  
Immunology (also known as immunopathology)  
Medical microbiology and virology (*formerly known as medical microbiology*)  
Histopathology\* (*formerly known as morbid anatomy and histopathology,*)  
Neurology\*  
Nuclear medicine

Obstetrics and gynaecology\*

Occupational medicine

Oral and maxillo-facial surgery (basic medical and dental training)

Paediatrics\*

General psychiatry\* (*formerly known as psychiatry, as general adult psychiatry, and as mental illness*)

Clinical oncology\* (*formerly known as radiotherapy*)

Renal medicine (*formerly known as renal disease, and as nephrology*)

Respiratory medicine\* (also known as thoracic medicine)

Rheumatology

Tropical medicine

Genito-urinary medicine (*formerly known as venereology*)

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### **Three years**

Anaesthetics\*

Endocrinology and diabetes mellitus

Haematology

Ophthalmology\*

Otolaryngology\* (also known as ENT surgery)

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Note: The specialties marked \* above are those listed in Annex C of the Directive which are common to all EEA States. The remaining specialties are those in which the UK awards a qualification but which are peculiar to two or more EEA States.

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## **PART 2 OTHER SPECIALTIES**

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Allergy

Audiological medicine

Clinical cytogenetics and molecular genetics

Clinical genetics

Forensic psychiatry

Intensive care medicine

Medical oncology

Medical ophthalmology

Psychiatry of learning disability

Old age psychiatry

Paediatric cardiology

Palliative medicine  
Pharmaceutical medicine  
Psychotherapy  
Rehabilitation medicine

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#### SCHEDULE 4

Article 5(6)

#### TEXT OF ARTICLES 30, 31(1) AND 34 OF THE DIRECTIVE

##### Article 30

Each Member State which dispenses the complete training referred to in Article 23 within its territory shall institute specific training in general medical practice meeting requirements at least as stringent as those laid down in Articles 31 and 32, in such a manner that the first diplomas, certificates or other evidence of formal qualifications awarded on completion of the course are issued not later than 1st January 2006.

##### Article 31

1. The specific training in general medical practice referred to in Article 30 must meet the following minimum requirements:

- (a) entry shall be conditional upon the successful completion of at least six years' study within the framework of the training course referred to in Article 23;
- (b) it shall be a full-time course lasting at least three years, and shall be supervised by the competent authorities or bodies;
- (c) it shall be practically rather than theoretically based; the practical instruction shall be given, on the one hand, for at least six months in an approved hospital or clinic with suitable equipment and services and, on the other hand, for at least six months in an approved general medical practice or in an approved centre where doctors provide primary care; it shall be carried out in contact with other health establishments or structures concerned with general medical practice; however, without prejudice to the aforesaid minimum periods, the practical instruction may be given for a maximum period of six months in other approved health establishments or structures concerned with general medical practice;
- (d) it shall entail the personal participation of the trainee in the professional activities of the persons with whom he works.

##### Article 34

1. Without prejudice to the principle of full-time training laid down in Article 31(1)(b), Member States may authorize specific part-time training in general medical practice in addition to full-time training, where the following particular conditions are met:

- the total duration of training may not be shortened because it is being followed on a part-time basis,
- the weekly duration of part-time training may not be less than 50 per cent of weekly full-time training,
- part-time training must include a certain number of full-time training periods, both for the training conducted at a hospital or clinic and for the training given in an approved medical

practice or in an approved centre where doctors provide primary care. These full-time training periods shall be of sufficient number and duration as to provide adequate preparation for the effective exercise of general medical practice.

2. Part-time training must be of a level and quality equivalent to that of full-time training. It shall lead to a diploma, certificate or other evidence of formal qualification, as referred to in Article 30.

## **SCHEDULE 5**

**Article 6(3)**

### **TEXT OF ANNEX I TO THE DIRECTIVE**

#### **CHARACTERISTICS OF THE FULL-TIME AND PART-TIME TRAINING OF SPECIALISTS AS REFERRED TO IN ARTICLES 24(1)(C) AND 25**

##### **1. Full-time training of specialists**

Such training shall be carried out in specific posts recognised by the competent authority.

It shall involve participation in all the medical activities of the department where the training is carried out, including on-call duties, so that the trainee specialist devotes to this practical and theoretical training all his professional activity throughout the duration of the standard working week and throughout the year according to provisions agreed by the competent authorities. Accordingly these posts shall be subject to appropriate remuneration.

Training may be interrupted for reasons such as military service, secondment, pregnancy or sickness. The total duration of the training shall not be reduced by reason of any interruption.

##### **2. Part-time training of specialists**

This training shall meet the same requirements as full-time training, from which it shall differ only in the possibility of limiting participation in medical activities to a period at least half of that provided for in the second paragraph of point 1.

The competent authorities shall ensure that the total duration and quality of part-time training of specialists are not less than those of full-time trainees. Appropriate remuneration shall consequently be attached to such part-time training.

## **SCHEDULE 6**

**Article 10(2)(c) and 12**

### **ACQUIRED RIGHTS OF GENERAL PRACTITIONERS IN THE UNITED KINGDOM**

#### **1. For the purposes of article 12(1), a person has an acquired right if—**

- (a) on 31st December 1994 his name was included in a medical list kept by a FHSA or in any corresponding list kept by a Health Board in Scotland or by the Northern Ireland Central Services Agency for the Health and Social Services in Northern Ireland;
- (b) on 31st December 1994 he was suitably experienced within the meaning of section 31 of the 1977 Act (requirement of suitable experience), section 21 of the 1978 Act (requirement of suitable experience), or Article 8 of the Health and Personal Social Services (Northern Ireland) Order 1978 (requirement of suitable experience) other than by virtue of—
  - (i) regulation 8(1)(e) of the 1979 Regulations, regulation 8(1)(e) of the 1980 Regulations or regulation 7(1)(d) of the 1979 Northern Ireland Regulations (exemption for applications to be a restricted services principal), or

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(ii) regulation 8(1)(h) of the 1979 Regulations, regulations 8(1)(h) of the 1980 Regulations or regulation 7(1)(g) of the 1979 Northern Ireland Regulations (exemption for doctors who are EC nationals)

even if on that date he had yet to obtain a certificate of prescribed or equivalent experience under any of those Regulations;

(c) on 31st December 1994 he was established in the United Kingdom by virtue of a qualification in medicine awarded in an EEA State other than the United Kingdom which had in his case to be recognised in the United Kingdom by virtue of the Directive (whether or not as read with the EEA Agreement), or by virtue of any enforceable Community right, as entitling him to be registered, or to practise as if he were registered, under section 3 of the Medical Act (registration by virtue of primary United Kingdom or primary European qualifications) as a fully registered medical practitioner; or

(d) subject to paragraph (2), on at least 10 days in the period of 4 years ending with 31st December 1994, or on at least 40 days in the period of 10 years ending with that date, he had—

(i) been engaged as a deputy by, or provided as a deputy to, a doctor whose name was included in the medical list of a FHSA or in any corresponding list kept by a Health Board in Scotland or by the Northern Ireland Central Services Agency for the Health and Social Services in Northern Ireland, or

(ii) been employed as an assistant (other than as a trainee general practitioner) by such a doctor.

2. For the purposes of paragraph 1(d), engagement or provision as a deputy for a period of less than 24 hours beginning before but ending after midnight counts as engagement or provision on the second day only.

3. In this Schedule—

(a) “the 1979 Regulations” means the National Health Service (Vocational Training) Regulations 1979<sup>(56)</sup>;

(b) “the 1979 Northern Ireland Regulations” means the Medical Practitioners (Vocational Training) Regulations (Northern Ireland) 1979<sup>(57)</sup>;

(c) “the 1980 Regulations” means the National Health Service (Vocational Training) (Scotland) Regulations 1980<sup>(58)</sup>;

(d) “the 1992 Regulations” means the National Health Service (General Medical Services) Regulations 1992<sup>(59)</sup>;

(e) “medical list” means the same as in the National Health Service (General Medical and Pharmaceutical Services) (Scotland) Regulations 1974<sup>(60)</sup>, the 1992 Regulations or the General Medical Services Regulations (Northern Ireland) 1997<sup>(61)</sup>, as the case may be; and

(f) “FHSA” means Family Health Services Authority.

<sup>(56)</sup> S.I. 1979/1644. Relevant amendments were made by S.I. 1980/1900, 1981/1790, 1984/215, 1985/1353, 1986/1642 and 1991/406.

<sup>(57)</sup> S.R. 1979 No. 460. Relevant amendments were made by S.R. 1986 No. 69 and 1986 No. 309.

<sup>(58)</sup> S.I. 1980/30. Relevant amendments were made by S.I. 1986/1657 and 1991/576.

<sup>(59)</sup> S.I. 1992/635.

<sup>(60)</sup> S.I. 1974/506. Relevant amendments were made by S.I. 1978/1762, 1985/1625 and 1989/1990.

<sup>(61)</sup> S.R. 1997 No. 380.



**SCHEDULE 7**

Article 15

**SPECIALIST QUALIFICATIONS AWARDED IN EEA STATES OTHER THAN THE UNITED KINGDOM**

<b>Country</b>	<b>Title of qualification</b>	<b>Awarding body</b>
Austria	Facharzt Diplom	Österreichische Ärztekammer
Belgium	Bijzondere beroepstitel van geneesheer-specialist/Titre professionnel particulier de médecin spécialiste	Minister bevoegd voor Volksgezondheid/Ministre de la Santé publique
Denmark	Bevis for tilladelse til at betegne sig som speciallæge	Sundhedsstyrelsen
Finland	Erikoislääkärin tutkinto/specialläkarexamen	1. Helsingin yliopisto/ Helsingfors universitet 2. Kuopion yliopisto 3. Oulun yliopisto 4. Turun yliopisto
France	1. Certificat d'études spéciales de médecine 2. Attestation de médecin spécialiste qualifié 3. Certificat d'études spéciales de médecine 4. Diplôme d'études spécialisées ou spécialisation complémentaire qualifiante de médecine	1. 3. 4. Universités 2. Conseil de l'Ordre des médecins
Germany	Fachärztliche Anerkennung	Countryesärztekammer
Greece	Τίτλος Ιατρικής Επιδικότητας	1. Νομαρχική Αυτοδιοίκηση 2. Νομαρχία
Iceland	Sérfræðileyfi	Heilbrigðis-og tryggingamálaráðuneyti
Ireland	Certificate of Specialist doctor	Competent authority
Italy	Diploma di medico specialista	Università
Liechtenstein	The diplomas, certificates and other titles awarded in another State to which the Directive applies and which are listed in this Schedule, accompanied by a certificate on the completed practical training issued by the competent authorities.	
Luxembourg	Certificat de médecin spécialiste	Ministre de la Santé publique

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<b>Country</b>	<b>Title of qualification</b>	<b>Awarding body</b>
The Netherlands	Bewijs van inschrijving in een Specialistenregister	<p><b>1.</b> Medisch Specialisten Registratie Commissie (MSRC) van de Koninklijke Maatschappij tot Bevordering der Geneeskunst</p> <p><b>2.</b> Sociaal-Geneskundigen Registratie Commissie van de Koninklijke Nederlandsche Maatschappij tot Bevordering der Geneeskunst</p> <p><b>3.</b> Huisarts en Verpleeghuisarts Registratie Commissie (HVRC) van de Koninklijke Nederlandsche Maatschappij tot Bevordering der Geneeskunst</p>
Norway	Spesialistgodkjenning	Den norske lægeforening ihht. Delegert mindighet
Portugal	<p><b>1.</b> Grau de assistente e/ou</p> <p><b>2.</b> Titulo de especialista</p>	<p><b>1.</b> Ministério da Saúde</p> <p><b>2.</b> Ordem dos Médicos</p>
Spain	Título de Especialista	Ministerio de Educación y Cultura
Sweden	Bevis om specialkompetens som läkare, utfärdat av Socialstyrelsen	Socialstyrelsen
Switzerland	Spécialiste, Facharzt, specialista	Département fédéral de l'intérieur

## SCHEDULE 8

Article 31(4)

### TRANSITIONAL, TRANSITORY AND SAVING PROVISIONS

## PART 1

### THE ESMQO 1995 AND THE VOCATIONAL TRAINING REGULATIONS

#### *Interpretation*

**1.** In this Part—

- (a) “old specialist register” means the register of specialists maintained by the GMC under article 8 of the ESMQO 1995 (the specialist register); and
- (b) “relevant date” means the date on which this Part comes into force.

### *General practitioners*

2. Where the JCPTGP has approved training under regulation 6 or 8 of either the Vocational Training Regulations, the Vocational Training Regulations (Scotland) or the Vocational Training Regulations (Northern Ireland) (which relate to prescribed medical experience and approval of training posts), the Board shall be deemed to have approved that training under article 4, and if that training is continuing immediately before the relevant date, the Board shall be deemed to have approved such training, until such time as the Board—

- (a) gives approval under article 4(5);
- (b) gives approval under article 4(5) subject to conditions under article 4(7); or
- (c) withdraws approval under article 4(8) or 9(4).

3. Where the JCPTGP has approved a GP Trainer under regulation 7 of either the Vocational Training Regulations, the Vocational Training Regulations (Scotland) or the Vocational Training Regulations (Northern Ireland) (which relate to approval of trainers), and that approval continues immediately before the relevant date, the Board shall be deemed to have approved that general practitioner under article 4, until such time as the Board—

- (a) gives approval under article 4(5);
- (b) gives approval under article 4(5) subject to conditions under article 4(7); or
- (c) withdraws approval under article 4(8) or 9(4).

4. Where an appeal is made against a decision of the JCPTGP which was made under regulation 7 of either the Vocational Training Regulations or the Vocational Training Regulations (Northern Ireland) (appeal against a decision to refuse to approve a GP Trainer)—

- (a) before the relevant date but where the appeal has not been determined by that date; or
- (b) on or after the relevant date within the time limit specified in regulation 7(5) or (6) of the Regulations specified above,

the appeal shall be dealt with in accordance with the relevant provisions of the Vocational Training Regulations or the Vocational Training Regulations (Northern Ireland) (as appropriate).

5. Where a person has applied to the JCPTGP for a certificate of equivalent experience or a certificate of prescribed experience before the relevant date, but the application has not been determined before that date—

- (a) the Board shall determine that application in accordance with the relevant provisions of the Vocational Training Regulations, the Vocational Training Regulations (Scotland) or the Vocational Training Regulations (Northern Ireland) (as appropriate);
- (b) the time limit specified in regulation 12A of each of those Regulations (decisions relating to certificates of equivalent experience in respect of persons exercising a Community right) shall apply (where applicable), and the period of three months specified in regulation 12A(4) shall begin with the date on which the JCPTGP or, as the case may be, the Board received the application together with full supporting documentation; and
- (c) any appeal against a refusal of a certificate shall be made and determined in accordance with the relevant provisions of the Regulations specified in sub-paragraph (a) (including an appeal against a failure to notify the applicant of a decision within the time limit specified in regulation 12A),

save that nothing in this paragraph shall prevent such a person from withdrawing any such application and making a new application to the Board for a CCT pursuant to the provisions of this Order, or for a statement of eligibility for registration pursuant to article 11(3) (as the case may be).

6. Where an appeal is made against a decision of the JCPTGP pursuant to regulation 12A(3) or 13 of either the Vocational Training Regulations, the Vocational Training Regulations (Scotland) or

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the Vocational Training Regulations (Northern Ireland) (as appropriate) (which relate to decisions relating to certificates of equivalent experience in respect of persons exercising a Community right, and appeals against refusal of certificates)—

- (a) before the relevant date but where the appeal has not been determined by that date; or
- (b) on or after the relevant date within the time limit specified in regulation 13(1) of the Regulations specified above,

the appeal shall be dealt with in accordance with the relevant provisions of the Vocational Training Regulations, the Vocational Training Regulations (Scotland) or the Vocational Training Regulations (Northern Ireland) (as appropriate).

7. In determining any application to the Board made by a person to whom the JCPTGP has, before the relevant date, given written advice in relation to his training, the Board shall take that advice into account in determining that person's application.

8. In paragraph 4, 5 and 6, if the relevant provisions have been repealed, they shall be treated for the purposes of those paragraphs as if they remained in force with such modifications as necessary, including as if references to the "Joint Committee" were to the Board.

#### *Specialists*

9.—(1) The Registrar of the GMC shall ensure that all specialists whose names are included in the old specialist register immediately before the relevant date are, on the relevant date, transferred to the Specialist Register.

(2) Any application made to the GMC for inclusion in the old specialist register that is made before, but is not finally dealt with by the relevant date shall be determined—

- (a) in accordance with the relevant provisions of the ESMQO 1995, but if the application is successful, the applicant's name shall be included in the Specialist Register instead of the old specialist register; and
- (b) within the time limit specified in article 8(3A) or 8(A) of the ESMQO 1995 (which relate to decisions in respect of persons exercising a Community right and the specialist register), where applicable, the time period beginning with the date on which the GMC received the application for inclusion in the old specialist register together with full supporting documentation,

and any appeal against the GMC's decision to refuse such an application pursuant to article 8(3D) of the ESMQO 1995, shall be dealt with in accordance with that article, or, where applicable, article 8(3B) together with article 8(3D) (which relate to the specialist register), and if that appeal is successful, the applicant's name shall be included in the Specialist Register.

(3) If, pursuant to paragraph 12, the Board or an appeal panel arranged in accordance with article 13 of the ESMQO 1995 (appeals) has determined that a person is an eligible specialist pursuant to article 9(2) or (3) of the ESMQO 1995 (eligible specialists), that person shall be treated as an eligible specialist pursuant to article 14(2) of this Order for the purposes of any subsequent application or request to be included in the Specialist Register.

10. Where the STA has approved specialist training under article 7 of the ESMQO 1995 (minimum requirements of specialist medical training), including any conditions under article 7(3) of the ESMQO 1995, the Board shall be deemed to have approved that training, or those conditions, under article 4 of this Order, and if such training is continuing immediately before the relevant date, the Board shall be deemed to approve that training until such time as the Board—

- (a) gives approval under article 4(5);
- (b) gives approval under article 4(5) subject to conditions under article 4(7); or
- (c) withdraws approval under article 4(8) or 9(4).

**11.** Where a person has applied to the STA for a CCST before the relevant date, but the application has not been determined by that date—

- (a) the Board shall determine that application in accordance with article 6 of the ESMQO 1995 (certificates of completion of specialist training), and, where applicable, within the time limit specified in article 3(4)(b)(iia) of that Order (the competent authorities); and
- (b) any appeal against a refusal to award a CCST shall be made and determined in accordance with article 13(1) of the ESMQO 1995 (appeals),

save that nothing in this paragraph shall prevent such a person from withdrawing such an application and making a new application to the Board for a CCT under the provisions in this Order.

**12.** Where a person has applied to the STA under article 9(2) or (3) of the ESMQO 1995 (eligibility for entry to the specialist register) before the relevant date but the application has not been determined by that date—

- (a) the Board shall determine that application in accordance with those provisions, and in accordance with the requirements of article 8A of the ESMQO 1995 (decisions in respect of persons exercising a community right) where applicable; and
- (b) any appeal against a decision of the Board shall be made and determined in accordance with article 13(1) of the ESMQO 1995 (appeals),

save that nothing in this paragraph shall prevent such a person from withdrawing any application he has made to the STA and making a new application to the Board under articles 14(4) or (5) of this Order (as appropriate).

**13.** Where the STA has received a request in relation to its competent authority functions under article 3(4)(b)(i), (ii), (iii), (iv) or (v), or (c)(i) or (ii) of the ESMQO 1995 (the competent authorities) that was received before, but not finally dealt with by, the relevant date, the Board shall deal with the request in accordance with the relevant provisions of the ESMQO 1995.

**14.** Where an appeal is made pursuant to article 13(1) of the ESMQO 1995 (appeals) against a decision of the STA before the relevant date but it has not been determined by that date, the appeal shall be determined in accordance with that article.

**15.** Where—

- (a) a person's name has, before the relevant date, been removed from the old specialist register pursuant to article 14(1) of the ESMQO 1995 (removal and suspension from specialist register); and
- (b) on or after the relevant date, it comes to the notice of the Registrar of the GMC that a person removed from the old specialist register pursuant to article 14(1) of the ESMQO 1995, is a registered medical practitioner, or in the case of an oral and maxillo-facial surgeon, a registered medical practitioner and a registered dentist,

the Registrar shall, if requested to do so by that person, include that person's name in the Specialist Register and shall send him notice of having done so.

**16.** Where—

- (a) a person's name has been removed from the old specialist register pursuant to article 14(3) of the ESMQO 1995 (removal and suspension from specialist register) before the relevant date and notice has been served on that person pursuant to paragraph 2 of Schedule 6 to the ESMQO 1995; and
- (b) that person, on or after the relevant date, appeals against that removal within any relevant time limits,

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that appeal shall be determined in accordance with article 18(6) and (7) of this Order as if the decision to remove that person's name had been taken under article 18(5), and if that appeal is successful, that person's name shall be included in the Specialist Register.

**17.** Where—

- (a) a person's name has, before the relevant date, been removed from the old specialist register pursuant to article 14(4) of the ESMQO 1995 (removal and suspension from specialist register); and
- (b) on or after the relevant date, it comes to the notice of the Registrar of the GMC that a person removed from the old specialist register pursuant to article 14(4) of the ESMQO 1995, is no longer subject to suspension,

the Registrar shall, if he is satisfied that that person is a registered medical practitioner, or in the case of an oral and maxillo-facial surgeon, a registered medical practitioner and a registered dentist include that person's name in the Specialist Register and shall send him notice of having done so.

**18.** In any case falling within paragraphs 15 to 17, paragraph 8 of Schedule 4 to the Medical Act (service of notifications of decisions) shall apply to notices required by those paragraphs to be sent to any person by the Registrar of the GMC as it applies to the notifications referred to in that paragraph.

**19.** In determining any application made to the Board by a person to whom the STA has, before the relevant date, given written advice in relation to his training, the Board shall take that advice into account in determining that person's application.

**20.** In paragraphs 9, 11, 12, 13 or 14, if the relevant provisions of the ESMQO 1995 have been repealed, they shall be treated for the purposes of those paragraphs as if they remained in force with such modifications as necessary, including as if references to the STA were to the Board.

## **PART 2**

### **THE GENERAL PRACTITIONER REGISTER**

*General practitioners permitted to work within the National Health Service during the transitional period*

**21.** This Part shall apply until article 10(4) is brought fully into force.

**22.—**(1) Subject to sub-paragraph (2) and (3), a person shall not be eligible to be appointed to any post, or work as, a general practitioner in the National Health Service unless—

- (a) he is a registered medical practitioner; and
- (b) he—
  - (i) holds a CCT in general practice awarded by the Board,
  - (ii) has one of the certificates referred to in article 11(1),
  - (iii) was exempt from the need to have acquired the prescribed experience by regulation 5(1)(a), (b), (c), (d) or (f) of the Regulations referred to in article 11(2),
  - (iv) has a statement of eligibility issued to him under article 11(7), or
  - (v) has an acquired right in accordance with article 12(1) and Schedule 6.

(2) The prohibition in sub-paragraph (1) includes—

- (a) in England and Wales—

- (i) nomination or approval to fill a vacancy for a medical practitioner pursuant to any regulations made under section 29B of the 1977 Act(62) (vacancies for medical practitioners),
  - (ii) inclusion in a list of persons undertaking to provide general medical services pursuant to any regulations made under section 29 of the 1977 Act(63) (arrangements and regulations for general medical services) or in a list of persons approved for the purpose of assisting in the provision of any such services prepared pursuant to section 43D of that Act(64) (supplementary lists),
  - (iii) performing personal medical services as part of a pilot scheme within the meaning of section 1(1) of the 1997 Act (pilot schemes), or in accordance with any arrangements made pursuant to section 28C of the 1977 Act(65) (personal medical or dental services), or
  - (iv) inclusion in a list of persons who may perform personal medical services pursuant to any regulations made under section 8ZA of the 1997 Act(66) (lists of persons who may perform personal medical services or personal dental services) or section 28DA of the 1977 Act(67) (lists of persons who may perform personal medical services or personal dental services);
- (b) in Scotland—
- (i) nomination or approval to fill a vacancy for a medical practitioner to provide general medical services pursuant to any regulations made under section 19B (vacancies for medical practitioners) or section 24 (regulations for medical practices committees) of the 1978 Act(68),
  - (ii) inclusion in a list of persons undertaking to provide general medical services pursuant to any regulations made under section 19 of the 1978 Act (arrangements and regulations for general medical services) or in a list of persons approved to assist in the provision of such services pursuant to section 24B of that Act(69) (supplementary lists),
  - (iii) performing personal medical services as part of a pilot scheme within the meaning of section 1(1) of the 1997 Act (pilot schemes) or in accordance with any arrangements made pursuant to section 17C of the 1978 Act(70) (personal medical or dental services), or
  - (iv) inclusion in a list of persons who may perform personal medical services pursuant to any regulations made under section 17EA of the 1978 Act(71) (services lists);
- (c) in Northern Ireland—

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(62) Section 29B was inserted by the National Health Service (Primary Care) Act 1997 (c. 46), section 32(1); and amended by: the Health and Social Care Act 2001 (c. 15), section 15(1) and (2), and section 20(1) and (3); and the National Health Service Reform and Health Care Professions Act 2002 (c. 17), section 2(5) and Schedule 2, paragraphs 1 and 5.

(63) 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; the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, paragraph 8; and the National Health Service Reform and Health Care Professions Act 2002 (c. 17), section 2(5) and Schedule 2, paragraphs 1 and 3.

(64) Section 43D was inserted by the Health and Social Care Act 2001 (c. 15), section 24, and amended by the National Health Service Reform and Health Care Professions Act 2002 (c. 17), section 2(5) and Schedule 2, paragraphs 1 and 20.

(65) Section 28C is to be inserted by the National Health Service (Primary Care) Act 1997 (c. 46), section 21(1).

(66) Section 8ZA was inserted by the Health and Social Care Act 2001 (c. 15), section 26(2).

(67) Section 28DA is to be inserted by the Health and Social Care Act 2001 (c. 15), section 26(1).

(68) Section 19B is to be inserted by the National Health Service (Primary Care) Act 1997 (c. 46), section 33(1).

(69) Section 24B is to be inserted by the Community Care and Health (Scotland) Act 2002 (asp 5), section 18(2).

(70) Section 17C was inserted by the National Health Service (Primary Care) Act 1997 (c. 46), section 21(2).

(71) Section 17EA was inserted by the Community Care and Health (Scotland) Act 2002 (asp 5), section 18(1).

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

- (i) inclusion in a list of persons undertaking to provide general medical services pursuant to any regulations made under Article 56 of the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(72)</sup> (arrangements for general medical services),
- (ii) performing personal medical services as part of a pilot scheme within the meaning of Article 3(1) of the Health Services (Primary Care) (Northern Ireland) Order 1997<sup>(73)</sup>, or in accordance with any arrangements made pursuant to Article 15B<sup>(74)</sup> of the Health and Personal Social Services (Northern Ireland) Order 1972, or perform personal medical services within the meaning of Article 3(7) of the Health Services (Primary Care) (Northern Ireland) Order 1997, or
- (iii) being engaged as a deputy by, or employed as an assistant by a person undertaking to provide general medical services pursuant to any regulations made under Article 56 of the Health and Personal Social Services (Northern Ireland) Order 1972 (arrangements for general medical services).

(3) The prohibition in sub-paragraph (1) does not include any person undertaking a period of employment as a GP Registrar, or a person who is provisionally registered under section 15, 15A or 21 of the Medical Act acting in the course of his employment in a resident medical capacity in an approved medical practice (within the meaning of section 11(4) of that Act).

(4) A person who has an acquired right under paragraph 1(d) of Schedule 6 shall not be—

- (a) nominated or approved by a Health Authority or Primary Care Trust pursuant to any regulations made under section 29B of the 1977 Act (vacancies for medical practitioners), or included in a list of persons undertaking to provide general medical services pursuant to any regulations made under section 29 of the 1977 Act (arrangements and regulations for general medical services);
- (b) nominated or approved under section 19B of the 1978 Act (vacancies for medical practitioners), selected in accordance with section 23 of that Act (distribution of general medical services) or included in a list of persons undertaking to provide general medical services pursuant to any regulations made under section 19 of that Act (arrangements and regulations for general medical services); or
- (c) included in a list of persons undertaking to provide general medical services pursuant to any regulations made under Article 56 of the Health and Personal Social Services (Northern Ireland) Order 1972 (arrangements for general medical services),

merely because of that acquired right.

(5) A restricted services principal whose name is included in the General Practitioner Register by virtue of—

- (a) an acquired right by virtue of paragraph 1(a) of Schedule 6; or
- (b) an exemption from the need to have the prescribed experience under regulation 5(1)(d) of the Vocational Training Regulations, regulation 5(1)(d) of the Vocational Training Regulations (Scotland) or regulation 5(1)(d) of the Vocational Training Regulations (Northern Ireland) (which relate to exemptions),

shall not be entitled to practise otherwise than in accordance with the restriction which applies in his case.

<sup>(72)</sup> S.I. 1972/1265 (N.I. 14).

<sup>(73)</sup> S.I. 1997/1177 (N.I. 7).

<sup>(74)</sup> Article 15B is to be inserted by article 21 of the Health Services (Primary Care) (Northern Ireland) Order 1997 (S.I. 1997/1177 (N.I. 7)).



## **PART 3**

### **THE MEDICAL ACT 1983 (AMENDMENT) ORDER 2002**

**23.**—(1) This Part shall apply in place of article 18(1) and (2), until paragraph 10 of Schedule 1 to the Medical Act 1983 (Amendment) Order 2002(75) is brought into force.

(2) Where it comes to the notice of the Registrar of the GMC that a person whose name is included in the General Practitioner Register or the Specialist Register is—

- (a) no longer a registered medical practitioner; or
- (b) suspended from the register of medical practitioners kept under section 2 of the Medical Act, under any provision of that Act,

the Registrar shall remove that person’s name from the General Practitioner Register or the Specialist Register (as the case may be) and shall send him notice of having done so.

(3) Where it comes to the notice of the Registrar of the GMC that a person removed from the General Practitioner Register or the Specialist Register pursuant to paragraph (2)—

- (a) is once again a registered medical practitioner, in respect of a person whose name has been removed pursuant to sub-paragraph (2)(a); or
- (b) is no longer suspended from the register of medical practitioners kept under section 2 of the Medical Act (unless his name has been erased from that register), in respect of a person whose name has been removed from the General Practitioner Register or the Specialist Register pursuant to sub-paragraph (2)(b),

the Registrar shall, if that person so requests, include that person’s name in the Specialist Register or the General Practitioner Register (as the case may be) and shall send him notice of having done so.

(4) Where—

- (a) a person’s name has been removed from the General Practitioner Register or the Specialist Register pursuant to this Part; and
- (b) following the coming into force of paragraph 10 of Schedule 1 to the Medical Act 1983 (Amendment) Order 2002, that person becomes a registered medical practitioner,

the Registrar of the GMC shall treat that person as if he was removed from the appropriate Register pursuant to article 18(1) of this Order, and the procedure in article 18(2) shall accordingly apply to that person.

## **PART 4**

### **TRANSFER OF STAFF, RIGHTS AND LIABILITIES**

**24.**—(1) The Secretary of State may, if he sees fit, provide by directions for the transfer from the old employers to the new employer of any—

- (a) eligible employee; and
- (b) rights or liabilities.

(2) In this paragraph—

- (a) “the new employer” means the Board;
- (b) “the old employers” means the Royal College of General Practitioners or the STA; and

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(75) [S.I. 2002/3135](#).

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

- (c) “eligible employees” means persons who are employed under a contract of employment with the old employers.

**25.—**(1) A direction made under paragraph 24(1) may be made by the Secretary of State only if any requirements about consultation have been complied with in relation to eligible employees to be transferred under the scheme.

(2) A direction made under paragraph 24(1) may apply to all, or any description of, eligible employees.

**26.—**(1) The contract of employment of an eligible employee transferred by virtue of a direction made under paragraph 24(1)—

- (a) is not terminated by the transfer; and  
 (b) has effect from the date of the transfer as if originally made between the employee and the transferee.

(2) Without prejudice to the generality of sub-paragraph (1), where an employee is transferred pursuant to a direction mentioned in that sub-paragraph—

- (a) all the rights, powers, duties and liabilities of the old employers under or in connection with the contract of employment are, by virtue of this paragraph, transferred to the transferee on the date of transfer; and  
 (b) anything done in respect of that contract or employee in relation to the old employer is to be treated from that date as having been done by or in relation to the new employer.

(3) Sub-paragraphs (2)(a) and (b) do not transfer an employee’s contract of employment, or the rights, powers, duties and liabilities under or in connection with it, if he informs his old employer that he objects to the transfer.

(4) Where an employee objects as mentioned in sub-paragraph (3), his contract of employment with the old employer is terminated immediately before the date of transfer, but he is not to be treated for any purpose as having been dismissed by that employer.

(5) This paragraph does not prejudice any right of an employee to terminate his contract of employment if a substantial change is made to his detriment in his working conditions but no such right arises by reason only that, by virtue of this paragraph, the identity of his employer changes unless the employee shows that, in all the circumstances, the change is a significant change and is to his detriment.

(6) In this paragraph, “the date of transfer” means, in relation to an eligible employee, the date of the transfer determined under a direction made under paragraph 24(1).

**27.** A direction made under paragraph 24(1) may provide for the new employer to carry out any other functions necessary or expedient consequent on the dissolution of the old employers.

## SCHEDULE 9

Article 31(5)

### CONSEQUENTIAL AMENDMENTS TO PRIMARY LEGISLATION

#### *Race Relations Act 1976 (c. 74)*

**1.** In the Race Relations Act 1976(76), in Part II of Schedule 1A (bodies and other persons added after commencement of general statutory duty), under the cross-heading “Health”—

(76) 1976 c. 74, to which relevant amendments were made by S.I. 2001/3457.

- (a) “The Joint Committee on Postgraduate Training for General Practice.” and “The Specialist Training Authority of the Medical Royal Colleges.” shall be omitted from the list; and
- (b) “The Postgraduate Medical Education and Training Board.” shall be inserted in the appropriate position in the list.

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

- 2. In the National Health Service Act 1977—
  - (a) section 31 (requirement of suitable experience) and section 32 (regulations as to s. 31) shall be omitted;
  - (b) in section 102 (allowances and remuneration for members of certain bodies)—
    - (i) in subsection (1), paragraph (a)(iii) shall be omitted,
    - (ii) in subsection (2), paragraph (b) shall be omitted; and
  - (c) in section 126 (orders and regulations, and directions), in subsection (2), paragraph (a) shall be omitted.

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

- 3. In the National Health Service (Scotland) Act 1978(77)—
  - (a) in section 17E (personal medical or dental services: regulations), subsection (6) shall be omitted;
  - (b) in section 17EB (application for inclusion in services list)—
    - (i) at the end of subsection (1)(a), the word “or” shall be omitted, and
    - (ii) subsection (1)(b), (2) and (3) shall be omitted;
  - (c) section 21 (requirement of suitable experience) and section 22 (regulations as to section 21) shall be omitted;
  - (d) in section 23 (distribution of general medical services), in subsection (4), “, or as required by section 21” shall be omitted; and
  - (e) in section 24C (application for inclusion in supplementary list)—
    - (i) at the end of subsection (1)(a), the word “or” shall be omitted, and
    - (ii) subsection (1)(b), (2) and (3) shall be omitted.

*Health and Personal Social Services (Northern Ireland) Order 1978*

- 4. In the Health and Personal Social Services (Northern Ireland) Order 1978(78), Part III (Vocational Training for Medical Practitioners) shall be omitted.

*Medical Act 1983 (c. 54)*

- 5. In section 21A of the Medical Act 1983(79) (full registration for eligible specialists and qualified general practitioners), for sub-sections (2) and (3), there shall be substituted—
  - “(2) In subsection (1)(b) above—
  - “eligible specialist” means a person—

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(77) 1978 c. 29, to which relevant amendments were made by: the National Health Service (Primary Care) Act 1997, section 22(2) (insofar as it relates to personal medical services, section 22(2) is in force, but it is not yet in force in relation to personal dental services); and by the [Community Care and Health \(Scotland\) Act 2002 \(asp 5\)](#), section 18.

(78) S.I. 1978/1907 (N.I.26).

(79) 1983 c. 54; section 21A was inserted by S.I. 2002/3135.

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

- (a) who—
  - (i) has undertaken specialist medical training or been awarded specialist medical qualifications in a specialty in which the United Kingdom awards a CCT, and
  - (ii) has satisfied the Board that that specialist training or those qualifications, or both when considered together, are equivalent to a CCT in the specialty in question;
- (b) who—
  - (i) has undertaken specialist medical training or been awarded specialist medical qualifications outside the United Kingdom in a specialty in which the United Kingdom does not award a CCT, or
  - (ii) has knowledge of or experience in any medical specialty derived from academic or research work,  
and has satisfied the Board that these give him a level of knowledge and skill consistent with practice as a consultant in the National Health Service;
- (c) who—
  - (i) has specialist medical qualifications awarded outside the United Kingdom in a specialty in which the United Kingdom awarded a CCST; and
  - (ii) satisfied the former competent authority, or the Board pursuant to transitional arrangements, that those qualifications were equivalent to a CCST; or
- (d) who—
  - (i) has specialist medical qualifications awarded outside the United Kingdom in a specialty in which the United Kingdom did 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 former competent authority, or the Board pursuant to transitional arrangements, 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—

- (a) who—
    - (i) has undertaken training in general practice or obtained qualifications in general practice, and
    - (ii) has satisfied the Board that that training is, or those qualifications are, or both when considered together are equivalent to a CCT in general practice; or
  - (b) has been awarded a Certificate of Equivalent Experience by the Joint Committee on Postgraduate Training for General Practice, or by the Board pursuant to transitional arrangements.
- (3) In this section—

“the Board” means the Postgraduate Medical Education and Training Board;

“CCT” means Certificate of Completion of Training;

“CCST” means Certificate of Completion of Specialist Training;

“the former competent authority” means the Specialist Training Authority of the medical Royal Colleges; and

“transitional arrangements” means arrangements made for a period of time following the transfer of certain functions from the former competent authority to the Board, or from the Joint Committee on Postgraduate Training for General Practice to the Board (as the case may be).”.

*National Health Service (Primary Care) Act 1997 (c. 46)*

6. In the National Health Service (Primary Care) Act 1997—
- (a) in section 2 (provision of personal medical services)—
    - (i) in subsection (2), for paragraph (b) there shall be substituted—
      - “(b) an eligible medical practitioner;”, and
    - (ii) for subsection (4), there shall be substituted—
      - “(4) Regulations shall make provision as to the meaning of “eligible medical practitioner” for the purposes of this section.”;
  - (b) section 11 (medical practitioners to be suitably experienced) shall be omitted;
  - (c) in section 22 (supplementary regulations)—
    - (i) in subsection (1), the subsection (6) of the section 28E (personal medical or dental services: regulations) to be inserted into the 1977 Act shall be omitted, and
    - (ii) in subsection (2)(80), the subsection (6) of the section 17E to be inserted into the 1978 Act shall be omitted; and
  - (d) in section 33 (medical lists and vacancies: Scotland), subsection (3) shall be omitted.

*Health Services (Primary Care) (Northern Ireland) Order 1997*

7. In the Health Services (Primary Care) (Northern Ireland) Order 1997(81)—
- (a) in Article 4 (provision of personal medical services under a pilot scheme)—
    - (i) for paragraph (2)(b) there shall be substituted—
      - “(b) an eligible medical practitioner;”, and
    - (ii) for paragraph (4), there shall be substituted—
      - “(4) Regulations shall make provision as to the meaning of “eligible medical practitioner” for the purposes of this Article.”; and
  - (b) Article 12 (medical practitioners to be suitably experienced) shall be omitted.

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(80) Section 22(2) of the National Health Service (Primary Care) Act 1997 that inserts section 17E into the National Health Service (Scotland) Act 1978 has been commenced insofar as it relates to personal medical services but not in relation to personal dental services.

(81) S.I. 1997/1177 (N.I.7).

**SCHEDULE 10**

Article 31(5)

**CONSEQUENTIAL AMENDMENTS TO, AND  
REVOCATIONS OF, SECONDARY LEGISLATION****PART 1****CONSEQUENTIAL AMENDMENTS***The National Health Service (General Medical Services) Regulations 1992*

1. In the National Health Service (General Medical Services) Regulations 1992~~(82)~~—
  - (a) in regulation 18E(1) (criteria for approval and nomination), sub-paragraph (a) shall be omitted;
  - (b) in regulation 25 (temporary provision of services), for paragraph (6A) substitute—
 

“(6A) No doctor may be appointed under paragraph (2) or (6) unless he is included by a Health Authority, Local Health Board or Primary Care Trust in a medical list, a medical supplementary list in accordance with section 43D of the Act, or is named as a performer of personal medical services in a pilot scheme.”;
  - (c) in Schedule 2 (terms of service for doctors)—
    - (i) in paragraph 21A (which applies to England only), for sub-paragraph (2)(a)(iii), there shall be substituted—
 

“(iii) will, unless he is a trainee general practitioner acting in the place of and under the supervision of the doctor responsible for his training—

      - (aa) be an eligible general practitioner pursuant to paragraph 22 of Schedule 8 to the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003 (other than by virtue of being a restricted services principal) during the transitional period set out in paragraph 21 of Schedule 8 to that Order, or
      - (bb) have his name included in the General Practitioner Register maintained by the General Medical Council pursuant to article 10(1) of that Order (other than by virtue of being a restricted services principal),”
    - (ii) in paragraph 22 (which applies to Wales only), for sub-paragraph (2)(a)(iii), there shall be substituted—
 

“(iii) will, unless he is a trainee general practitioner acting in the place of and under the supervision of the doctor responsible for his training—

      - (aa) be an eligible general practitioner pursuant to paragraph 22 of Schedule 8 to the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003 (other than by virtue of being a restricted services principal) during the transitional period set out in paragraph 21 of Schedule 8 to that Order, or
      - (bb) have his name included in the General Practitioner Register maintained by the General Medical Council pursuant to article

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(82) S.I. 1992/635, relevant amendments to which were made by S.I. 1998/2838, 2001/3742 and 2003/26.

- 10(1) of that Order (other than by virtue of being a restricted services principal), and”, and
- (iii) in paragraph 22A—
- (aa) for sub-paragraph (a) there shall be substituted—
- “(a) either—
- (i) is an eligible general practitioner pursuant to paragraph 22 of Schedule 8 to the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003 (other than by virtue of being a restricted services principal) during the transitional period set out in paragraph 21 of Schedule 8 to that Order, or
- (ii) has his name included in the General Practitioner Register maintained by the General Medical Council pursuant to article 10(1) of that Order (other than by virtue of being a restricted services principal); or”, and
- (bb) sub-paragraph (b) shall be omitted;
- (d) in Schedule 3 (information to be considered by a Primary Care Trust when deciding whether or not to declare a vacancy), in Part III, for paragraph 5 there shall be substituted—
- “5. Medical qualifications and experience, and evidence that the doctor—
- (a) is an eligible general practitioner pursuant to paragraph 22 of Schedule 8 to the General and Specialist Medical Practice (Education, Training and Qualifications Order) 2003 during the transitional period set out in paragraph 21 of Schedule 8 to that Order; or
- (b) has his name included in the General Practitioner Register maintained by the General Medical Council pursuant to article 10(1) of that Order.”; and
- (e) in Schedule 12 (information to be included in practice leaflets), for paragraph 20 there shall be substituted—
- “20. If the practice has practitioners that are approved for the purposes of providing the training to GP Registrars referred to in article 5(1)(c)(i) of the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003, or if the practice undertakes the teaching of undergraduate medical students, the nature of the arrangements for drawing this to the attention of patients.”.

*The Medical Act 1983 (Approved Medical Practice and Conditions of Residence) and National Health Service (General Medical Services) (Amendment) Regulations 1998*

2. In regulation 2 of the Medical Act 1983 (Approved Medical Practice and Conditions of Residence) and National Health Service (General Medical Services) (Amendment) Regulations 1998(83), for sub-paragraph (1)(b) substitute—

- “(b) “training practitioner” means a practitioner approved for the purposes of providing the training to GP Registrars referred to in article 5(1)(c)(i) of the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003.”.

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(83) S.I. 1998/1664, relevant amendments to which were made by S.I. 2000/3040.

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

*The National Health Service (Appointment of Consultants) Regulations 1996*

3. In the National Health Service (Appointment of Consultants) Regulations 1996<sup>(84)</sup>, for regulation 4(b) (registration requirements), there shall be substituted—

“(b) in the case of an appointment of a registered medical practitioner made after the coming into force of article 13(1) of the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003, his name is included in the Specialist Register kept by the General Medical Council pursuant to article 13(1) of that Order.”.

*The National Health Service (Appointment of Consultants) (Wales) Regulations 1996*

4. In the National Health Service (Appointment of Consultants) (Wales) Regulations 1996<sup>(85)</sup>, for regulation 4(b) (registration requirements), there shall be substituted—

“(b) in the case of an appointment of a registered medical practitioner made after the coming into force of article 13(1) of the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003, his name is included in the Specialist Register kept by the General Medical Council pursuant to article 13(1) of that Order.”.

*The National Health Service (Pilot Schemes: Miscellaneous Provisions and Consequential Amendments) Regulations 1998*

5. In the National Health Service (Pilot Schemes: Miscellaneous Provisions and Consequential Amendments) Regulations 1998<sup>(86)</sup>, regulation 5 (persons who may perform personal medical services) shall be omitted.

*The Scotland Act 1998 (Cross-Border Public Authorities) (Specification) Order 1999*

6. In the Scotland Act 1998 (Cross-Border Public Authorities) (Specification) Order 1999<sup>(87)</sup>, the entry in the table in the Schedule to the Order relating to the Joint Committee on General Practitioner Training shall be omitted.

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

7. In the National Health Service (General Medical Services Supplementary List) Regulations 2001<sup>(88)</sup>—

(a) in regulation 4(2) (application for inclusion in the supplementary list), for subparagraph (e) there shall be substituted—

“(e) medical qualifications and where they were obtained, and a copy of evidence confirming that the applicant—

(i) is an eligible general practitioner pursuant to paragraph 22 of Schedule 8 to the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003, if the application has been made during the transitional period set out in paragraph 21 of Schedule 8 to that Order, or

(ii) has his name included in the General Practitioner Register maintained by the General Medical Council pursuant to article 10(1) of that Order, and”;

<sup>(84)</sup> S.I. 1996/701.

<sup>(85)</sup> S.I.1996/1313.

<sup>(86)</sup> S.I. 1998/646, relevant amendments to which were made by S.I. 2002/543.

<sup>(87)</sup> S.I. 1999/1319.

<sup>(88)</sup> S.I. 2001/3740, relevant amendments to which were made by S.I. 2002/848.



- (b) in regulation 6(2) (grounds for refusal), for sub-paragraph (d) substitute—
- “(d) if it is not satisfied that he—
- (i) is an eligible general practitioner pursuant to paragraph 22 of Schedule 8 to the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003, if the Primary Care Trust is determining the application during the transitional period set out in paragraph 21 of Schedule 8 to that Order, or
  - (ii) has his name included in the General Practitioner Register maintained by the General Medical Council pursuant to article 10(1) of that Order, and”.

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

**8.** In the National Health Service (General Medical Services Supplementary List) (Wales) Regulations 2002(**89**)—

- (a) in regulation 4(2) (application for inclusion in the supplementary list), for sub-paragraph (e), there shall be substituted—
- “(e) medical qualifications and where they were obtained, and a copy of evidence confirming that the applicant—
- (i) is an eligible general practitioner pursuant to paragraph 22 of Schedule 8 to the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003, if the application has been made during the transitional period set out in paragraph 21 of Schedule 8 to that Order, or
  - (ii) has his name included in the General Practitioner Register maintained by the General Medical Council pursuant to article 10(1) of that Order, and”;
- (b) in regulation 6(2) (grounds for refusal), for sub-paragraph (d) substitute—
- “(d) if it is not satisfied that he—
- (i) is an eligible general practitioner pursuant to paragraph 22 of Schedule 8 to the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003, if the Health Authority or Local Health Board is determining the application during the transitional period set out in paragraph 21 of Schedule 8 to that Order, or
  - (ii) has his name included in the General Practitioner Register maintained by the General Medical Council pursuant to article 10(1) of that Order, and”.

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

**9.** Yn Rheoliadau'r Gwasanaeth Iechyd Gwladol (Rhestr Atodol Gwasanaethau Meddygol Cyffredinol) (Cymru) 2002(**90**)—

- (a) yn rheoliad 4(2) (cais i gynnwys enw yn y rhestr atodol) yn lle is-baragraff (d), rhodder—
- “(d) cymwysterau meddygol ac ym mhle y cafwyd hwy, a chopi o'r dystiolaeth sy'n cadarnhau bod y ceisydd—

(89) S.I. 2002/1882(W.191), relevant amendments to which were made by S.I. 2002/2802 (W.270).

(90) O.S. 2002/1882 (Cy. 191), y gwnaed diwygiadau perthnasol iddo gan O.S. 2002/2802 (Cy. 270).

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

- (i) yn ymarferydd cyffredinol cymwys yn unol â pharagraff 22 o Atodlen 8 i Orchymyn Ymarfer Meddygol Cyffredinol ac Arbenigol (Addysg, Hyfforddiant a Chymwysterau) 2003, os cafodd y cais ei wneud yn ystod y cyfnod trosiannol a nodir ym mharagraff 21 o Atodlen 8 i'r Gorchymyn hwnnw, neu
  - (ii) wedi cael cynnwys ei enw yn y Gofrestr o Ymarferwyr Cyffredinol a gedwir gan y Cyngor Meddygol Cyffredinol yn unol ag erthygl 10(1) o'r Gorchymyn hwnnw, ac”;
- (b) yn rheoliad 6(2) (rhesymau dros wrthod), yn lle is-baragraff (ch) rhodder—
- “(ch) os nad yw'n fodlon bod y meddyg—
- (i) yn ymarferydd cyffredinol cymwys yn unol â pharagraff 22 o Atodlen 8 i Orchymyn Ymarfer Meddygol Cyffredinol ac Arbenigol (Addysg, Hyfforddiant a Chymwysterau) 2003, os yw'r Awdurdod Iechyd neu'r Bwrdd Iechyd Lleol yn penderfynu'r cais yn ystod y cyfnod trosiannol a nodir ym mharagraff 21 o Atodlen 8 i'r Gorchymyn hwnnw, neu
  - (ii) wedi cael cynnwys ei enw yn y Gofrestr o Ymarferwyr Cyffredinol a gedwir gan y Cyngor Meddygol Cyffredinol yn unol ag erthygl 10(1) o'r Gorchymyn hwnnw, a”.

## PART 2

### REVOCATIONS

Instrument revoked	References	Extent of revocation
National Health Service (Vocational Training for General Medical Practice) Regulations 1997	<a href="#">S.I.1997/2817</a>	The whole Regulations
National Health Service (Vocational Training for General Medical Practice) Amendment Regulations 1998	<a href="#">S.I. 1998/669</a>	The whole Regulations
National Health Service (Vocational Training for General Medical Practice) (Scotland) Regulations 1998	<a href="#">S.I. 1998/5</a>	The whole Regulations
National Health Service (Vocational Training for General Medical Practice) (Scotland) Amendment Regulations 2000	<a href="#">S.S.I. 2000/23</a>	The whole Regulations
Medical Practitioners (Vocational Training) Regulations (Northern Ireland) 1998	<a href="#">S.R. 1998 No.13</a>	The whole Regulations
Vocational Training for General Medical Practice	<a href="#">S.I. 1994/3130</a>	The whole Regulations

<b>Instrument revoked</b>	<b>References</b>	<b>Extent of revocation</b>
(European Requirements) Regulations 1994		
European Specialist Medical Qualifications Order 1995	<a href="#">S.I. 1995/3208</a>	The whole Order
European Specialist Medical Qualifications Amendment Regulations 1997	<a href="#">S.I. 1997/2928</a>	The whole Regulations
European Specialist Medical Qualifications Amendment Regulations 1999	<a href="#">S.I. 1999/1373</a>	The whole Regulations
European Specialist Medical Qualifications Amendment (No.2) Regulations 1999	<a href="#">S.I. 1999/3154</a>	The whole Regulations
European Specialist Medical Qualifications Amendment Regulations 2002	<a href="#">S.I. 2002/849</a>	The whole Regulations
National Health Service (England) (Pilot Schemes: Miscellaneous Provisions and Consequential Amendments) Amendment Regulations 2002	<a href="#">S.I. 2002/543</a>	The whole Regulations
The National Health Service (General Medical Services Supplementary List) (Amendment) Regulations 2002	<a href="#">S.I. 2002/848</a>	The whole Regulations

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order provides for the regulation of postgraduate medical education and training for specialist medical practice and general medical practice: the Order implements obligations under Directive [93/16/EEC](#) of 5th April 1993 to facilitate the free movement of doctors and the mutual recognition of their diplomas, certificates and other evidence of formal qualifications.

This Order is made under sections 60 and 62(4) of the Health Act 1999. Under paragraph 9(1) and (3) of Schedule 3 to the Health Act 1999, the Secretary of State and the Scottish Ministers jointly 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/medicaltrainingintheuk/pmetbreform.htm](http://www.doh.gov.uk/medicaltrainingintheuk/pmetbreform.htm)).

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

Part 1 of the Order makes provision for commencement and interpretation of the Order (articles 1 and 2 and Schedule 1).

Part 2 of the Order creates a body, the Postgraduate Medical Education and Training Board (“the Board”), which is required to set standards of postgraduate medical education and training and to put in place arrangements to ensure that they are met (article 3 and Part 1 of Schedule 2). The Order creates two statutory committees of the Board: the Training Committee and the Assessment Committee (article 3(7) and Part 2 of Schedule 2).

Part 3 of the Order provides for the Board to set standards and requirements that have to be satisfied before a doctor can be awarded a Certificate of Completion of Training (“CCT”) as a general practitioner or a specialist (article 4). Any such standards or requirements established by the Board must comply with prescribed minimum requirements, which includes the requirements for general practice and specialist training set out in Directive 93/16/EEC (articles 5 and 6, and Schedules 3, 4 and 5). The Board may award CCTs (article 8). The Board may appoint visiting panels to visit persons or institutions who are involved in the provision of postgraduate medical education and training (article 7). The Order also makes provision as to the information that such persons or institutions must provide to the Board (article 9).

Part 4 makes provision for the General Medical Council (“GMC”) to maintain a General Practitioner Register (article 10) and a Specialist Register (article 13). The Order sets out the categories of doctors who are eligible for entry in each of the Registers (articles 11, 12 and 14 and Schedules 6 and 7). The Specialist Register replaces the register of specialists maintained by the GMC under the European Specialist Medical Qualifications Order 1995.

Provision is made for certain time limits to apply to the GMC when dealing with applications to it to be included in the Registers (article 16). Provision is also made for the GMC to publish the Registers and to provide certain information to persons making inquiries as to whether a doctor’s name is included in the Registers (article 17). Provision is also made for the removal and suspension of doctors from the Registers in prescribed circumstances (article 18). In particular, provision is made for a doctor’s name to be removed from either of the Registers if that doctor is no longer a registered medical practitioner. The Order provides that a doctor cannot work as a general practitioner or a consultant in the National Health Service in the United Kingdom unless his name is included in the appropriate register (articles 10(4) and 13(6)).

Part 5 designates the Board and the GMC as competent authorities for certain purposes required by Directive 93/16/EEC, and it confers specific functions on the GMC and the Board. The GMC is designated as the competent authority for the purposes of the recognition and registration of specialist qualifications (article 20(1)(a)) and provision is made for the recognition of vocational training certificates and certificates of acquired rights (article 19(b)) issued in EEA States other than the United Kingdom.

Part 6 provides for appeals to an Appeal Panel against decisions of the Board (article 21(1)). An appeal from any decision of an Appeal Panel can be made to a county court or, in Scotland, a sheriff (article 22). A separate provision provides for a right of appeal under the Medical Act 1983 against a decision by the GMC not to include a person’s name in the General Practitioner Register or the Specialist Register (article 23).

Part 7 contains provision on miscellaneous matters. Provision is made for the Board and the GMC to charge fees for services they provide when performing functions under the Order (article 24). Provision is also made for approval by the Secretary of State of certain rules made by the Board (in relation to fees and removal of members from the Board) and the procedure which applies (article 25). The Secretary of State is given default powers if he considers that the Board has failed to perform its functions (article 26). It is a requirement that the Secretary of State arranges a full review of the Board’s exercise of its functions once every five years (article 28). The Board is required to produce annual reports (article 27) and to keep proper accounts (article 29).

Minor amendments are made to the Medical Act 1983 (article 30). The amendment in article 30(1) is made to ensure that section 40(9) of the Medical Act 1983 (which relates to costs arising in fitness to practise appeals), as amended by the Medical Act 1983 (Amendment) Order 2002, reflects the amendments made to that section by the National Health Service Reform and Health Care Professions Act 2002. Article 30(2) provides for amendments to paragraph 11(1) and (2) of Schedule 5 to the Medical Act 1983 to alter the definition of registered medical practitioner and similar expression in pre 1st January 1979 legislation as a result of the introduction of the licence to practise by virtue of the Medical Act 1983 (Amendment) Order 2002: as a result of this amendment it is no longer necessary to amend the Prison Act 1952 in paragraph 1 of Schedule 1 to the Medical Act 1983 (Amendment) Order 2002, and paragraph 1 is therefore omitted.

Transitional, transitory and saving provisions are made (article 31 and Schedule 8) and consequential amendments and revocations are made to primary and secondary legislation (article 31 and Schedules 9 and 10). Provision is made for the Order to extend to the whole of the United Kingdom (article 31) except in relation to certain consequential amendments to primary and secondary legislation provided for in Schedules 9 and 10 respectively.

A transposition note in relation to the implementation of Directive [93/16/EEC](#) has been placed in the libraries of both Houses of Parliament, and copies can be obtained from Department of Health, Room 2N35a, Quarry House, Quarry Hill, Leeds, West Yorkshire LS2 7UE.