
STATUTORY INSTRUMENTS

2006 No. 1914

**The Medical Act 1983 (Amendment) and
Miscellaneous Amendments Order 2006**

PART 5

Fitness to practise matters in connection with registration

Second article amending section 3 of the Act

45. In subsection (1) of section 3(1) (registration by virtue of primary United Kingdom or primary European Qualifications), after “any person” insert “whose fitness to practise is not impaired and”.

Amendment of section 15A of the Act

46. At the end of subsection (2) of section 15A(2) (provisional registration for EEA nationals), add “if his fitness to practise is not impaired”.

Second article amending section 19 of the Act

47. In section 19(3) (full registration of EEA nationals etc. by virtue of overseas primary qualifications etc.), in subsection (1), for paragraph (c) substitute the following paragraph—

“(c) that his fitness to practise is not impaired,”.

Fourth article amending section 31 of the Act

48. In subsection (9)(a) of section 31(4) (which relates to the making of regulations with respect to the register), for “good character” substitute “fitness to practise”.

First article amending section 40 of the Act

49. In section 40(5) (appeals)—

(a) after subsection (1) insert the following subsection—

“(1A) A decision under regulations made—

(a) under section 31 above by virtue of subsection (8) of that section; or

(b) under section 31A(1)(c) above,

not to restore a person’s name to the register for a reason that relates to his fitness to practise is also an appealable decision for the purposes of this section.”;

(1) Section 3(1) was substituted by S.I.1996/1591.
(2) Section 15A was inserted by S.I. 2000/3041.
(3) Section 19 was substituted by S.I. 2002/3135.
(4) Section 31(9) was amended by S.I. 2002/3135.
(5) Section 40 was substituted by S.I. 2002/3135.

- (b) after subsection (4) insert the following subsection—
- “(4A) A person in respect of whom an appealable decision falling within subsection (1A) has been taken may, before the end of the period of 28 days beginning with the date on which notification of the decision was served, appeal against the decision to the relevant court.”; and
- (c) in subsection (5), for “subsection (4)” substitute “subsections (4) and (4A)”.

Second article amending section 41 of the Act

50. In subsection (1) of section 41(6) (restoration of names to the register), after “section 35D above,” insert “or section 44B(4)(b) below.”.

New section 44B of the Act replacing section 44A of the Act

- 51.**—(1) Omit section 44A(7) (effect of disqualification or conviction on registration).
- (2) After section 44, insert the following section—

“Provision of information in respect of fitness to practise matters

44B.—(1) If a person has been registered by virtue of any provision of this Act and it is subsequently shown to the satisfaction of the Registrar that—

- (a) his fitness to practise was impaired at the time of his registration because of his involvement in a serious matter or a problem with his physical or mental health; and
- (b) he had not informed the Registrar of that matter or problem before his registration,
- the Registrar may erase that person’s name from the register.

(2) The General Council may by regulations make provision for the information to be provided to the Registrar—

- (a) by or in respect of a person seeking registration by virtue of any provision of this Act, other than section 18 above, for the purpose of determining whether his fitness to practise is impaired;
- (b) by or in respect of a person who is fully registered or provisionally registered, for the purpose of determining whether his fitness to practise was impaired at the time of his registration because of his involvement in a serious matter or a problem with his physical or mental health.

(3) In subsections (1) and (2) above, “serious matter” has the same meaning as in article 12(2) of Directive [93/16/EEC](#)(8).

(4) The Registrar may—

- (a) refuse to register (even if he is directed by the General Council to do so) any person who fails to comply with, or in respect of whom there is a failure to comply with, regulations made under subsection (2)(a) above;
- (b) erase from the register the name of any person who fails to comply with, or in respect of whom there is a failure to comply with, regulations made under subsection (2) (b) above.

(6) Section 41 was substituted by S.I. [2002/3135](#).

(7) Section 44A was inserted by S.I. [2002/3135](#).

(8) OJNo. L 165, 7.7.1993, p.1. There are no relevant amending instruments.

(5) For the purpose of determining whether an exempt person (“E”) should be registered under this Act, the General Council or the Registrar, as the case may be, shall accept as sufficient evidence that his fitness to practise is not impaired a document—

- (a) to which subsection (6) below applies, as regards his physical or mental health; or
- (b) to which subsection (8) below applies, as regards any other relevant matter,

if it is presented to the Registrar within the period of three months beginning with its date of issue.

(6) This subsection applies to a document that attests to E’s good physical and mental health, and—

- (a) which would be required in E’s EEA State of origin or the EEA State from which he comes (“E’s attesting State”), if he wished to start practising medicine there; or
- (b) if no such document is required there, which is issued by a competent authority in E’s attesting State (and which, if relevant, is in the form mentioned in subsection (7) below).

(7) If regulations made under subsection (2) above require a certificate which attests to an applicant’s good physical and mental health to be in a particular form, a document referred to in subsection (6)(b) above must be in that form or in a form which corresponds to it.

(8) Except as mentioned in subsection (9) below, this subsection applies to a document—

- (a) containing an extract from the judicial record issued by a competent authority in E’s attesting State; or
- (b) which is a certificate issued by a competent authority in E’s attesting State,

in either case attesting to E’s good character and good repute.

(9) Subsection (8) above does not apply to a document which may be, or has been, revised or rescinded as a consequence of an approach made by the General Council to the competent authority which issued it, in accordance with article 11(3) of Directive 93/16/EEC.

(10) Regulations under subsection (2) above shall not have effect until approved by order of the Privy Council.”.

Amendment of section 45 of the Act

52. In subsection (5) of section 45(9) (disciplinary provisions affecting practitioners who render services while visiting the United Kingdom), for “one or more of his good character, professional competence and health” substitute “his fitness to practise”.

Third article amending Schedule 3 to the Act

53. In paragraph 3 of Schedule 3(10) (registration: supplementary provisions), omit subparagraph (3).

Third article amending Schedule 3A to the Act

54. In paragraph 2(1) of Schedule 3A(11) (registration appeals), for paragraph (o) substitute the following paragraph—

(9) Section 45 was substituted by S.I. 2002/3135.

(10) Paragraph 3 has been amended by S.I. 1996/1519 and 2000/3041.

(11) Schedule 3A was inserted by S.I. 2002/3135.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“(o) a decision under section 44B of this Act (fitness to practise matters prior to registration) to refuse to register a person or to erase a person’s name from the register;”.