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STATUTORY INSTRUMENTS

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**2014 No. 1101**

**The Medical Act 1983 (Amendment)  
(Knowledge of English) Order 2014**

**PART 3**

**Fitness to Practise**

**Amendment to section 35C of the Act**

**6.—(1)** Section 35C of the Act (functions of the investigation committee)(1) is amended in accordance with this article.

(2) After subsection (2)(d) insert—

“(da) not having the necessary knowledge of English (but see section 2(4));”.

**Amendment to section 35D of the Act**

**7.—(1)** Section 35D (functions of a fitness to practise panel)(2) is amended in accordance with this article.

(2) In subsection (2)(a) after “except in a health case” insert “or language case”.

(3) In subsection (5)(b) after “except in a health case” insert “or language case”.

(4) In subsection (6) after “In a health case” insert “or language case”.

(5) In subsection (10)(a) after “except in a health case” insert “or language case”.

(6) In subsection (12)(a) after “except in a health case” insert “or language case”.

**Amendment to section 35E of the Act**

**8.—(1)** Section 35E (provisions supplementary to section 35D)(3) is amended in accordance with this article.

(2) At the end of paragraph (b) of subsection (4) insert “other than paragraph (da)”.

(3) After subsection (4) insert—

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

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- (1) Section 35C was added by [S.I. 2002/3135](#) (commencement as notified in the London Gazette dated October 8, 2004), and amended by [S.I. 2006/1914](#) (commencement as notified in the London Gazette on July 20, 2007) and [S.I. 2008/3131](#). Section 35C, 35D, 35E and Schedule 4 were amended by sections 98-110 of, and Schedule 6 and 7 to, the Health and Social Care Act 2008 (c. 14) but these amendments were not commenced and have now been repealed by section 231 of the Health and Social Care Act 2012 (c. 7) as commenced by [S.I. 2012/1319](#). There are other amending instruments but none are relevant.
- (2) Section 35D was added by [S.I. 2002/3135](#) (commencement as notified in the London Gazette dated October 8, 2004).
- (3) Section 35E was added by [S.I. 2002/3135](#) (commencement as notified in the London Gazette dated October 8, 2004), as amended by [S.I. 2006/1914](#) (commencement notified in the London Gazette dated September 8, 2006).

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

#### **Amendment to Schedule 4 to the Act**

9.—(1) Schedule 4 to the Act (proceedings before the investigation committee, interim orders panels and fitness to practise panels)(4) is amended in accordance with this article.

(2) After paragraph 5A(9) (professional performance assessments) insert—

“(10) In this paragraph a reference to the standard of a registered person’s professional performance includes the standard of the person’s knowledge of English and, in particular, whether the person has the necessary knowledge of English.

(11) But an assessment carried out by virtue of this paragraph must not be limited to an assessment of whether a person has the necessary knowledge of English.

(12) Where an assessment is required to be undertaken by virtue of paragraph 5C below, that assessment shall not be carried out by an Assessment Team.”.

(3) After paragraph 5B insert—

#### **“Knowledge of English Assessments**

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

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

requiring a registered person to undertake an assessment of that person’s knowledge of English;

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

(2) An assessment required to be undertaken by virtue of this paragraph must be undertaken in accordance with rules made by the General Council under this paragraph; and the rules shall, in particular, provide—

- (a) for the procedures to be followed by such persons when directing a registered person to undertake such an assessment;
- (b) for the registered person who is required to undertake such an assessment to provide information in respect of that assessment to such persons as may be prescribed under the rules;
- (c) for the information provided by virtue of paragraph (b) to be disclosed to such persons as may be prescribed under the rules.

(3) If the Registrar is of the opinion that a person who is required to undertake an assessment of that person’s knowledge of English has failed to undertake that assessment or has undertaken

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(4) Schedule 4 was substituted by S.I. 2002/3131 (commencement as notified in the London Gazette dated July 2, 2004), subject to savings provisions specified in S.I. 2004/1731 and S.I. 2004/2610; and was amended by Schedule 7 to, the Health and Social Care Act 2008 (c. 14) but these amendments were not commenced and have now been repealed by section 231 of the Health and Social Care Act 2012 (c. 7) as commenced by S.I. 2012/1319.

the assessment but has failed to provide the information requested in respect of that assessment the Registrar may—

- (a) refer the matter to the Fitness to Practise Panel, and
- (b) if he does so, shall without delay serve on the person a notification of the making of such a referral.

(4) Where a matter is referred to the Fitness to Practise Panel under sub-paragraph (3), they may, if they think fit—

- (a) direct that the person's registration in the register shall be suspended (that is to say, shall not have effect) during such period not exceeding 12 months as may be specified in the direction; or
- (b) direct that the person's registration shall be conditional on the person's compliance, during such period not exceeding 3 years as may be specified in the direction, with such requirements so specified as the Fitness to Practise Panel think fit to impose for the protection of members of the public or in the person's interests.

(5) Where under sub-paragraph (4), the Fitness to Practise Panel give a direction for suspension or a direction for conditional registration the Registrar must without delay serve on the person concerned notification of the direction and of the person's right to appeal against it under sub-paragraph (7).

(6) While a person's registration in the register is suspended by virtue of a direction under sub-paragraph (4)—

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

(7) An appeal shall lie to the relevant court (within the meaning of section 40(5) of this Act) from any direction of a Fitness to Practise Panel given under sub-paragraph (4) and on an appeal under this paragraph the relevant court may—

- (a) quash the direction,
- (b) substitute for the direction any other direction which the Panel could have made, or
- (c) remit the case to the Registrar for him to refer it to a Fitness to Practise Panel to be disposed of in accordance with the court's directions,

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

(8) Subject to paragraph 9, an appeal under sub-paragraph (7) must be brought before the end of the period of 28 days beginning with the date on which notification of the direction was served under sub-paragraph (5).

(9) Sub-paragraphs (6) to (9) of paragraph 1 above shall apply in relation to rules made under this paragraph as they apply in relation to rules under that paragraph.”

(4) In paragraph 8(1) (service of notifications of decisions)(5) after “41A(5) of this Act” insert “or paragraph 5C(3) or (5) above.”

(5) In paragraph 9 (extension of time for appealing)—

- (a) in sub-paragraph (a), after “39(2) of this Act” insert “or paragraph 5C(5) above”;
- (b) after “section 40 of this Act” insert “or paragraph 5C(7) above or under rules made by virtue of paragraph 5A(3) above ”.

(6) After paragraph 10A(6) insert—

“**10B.**—(1) A direction for suspension or for conditional registration given by the Fitness to Practise Panel under paragraph 5C(4) above shall take effect—

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

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

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

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

(7) In paragraph 11—

(a) in sub-paragraph (1)—

- (i) after “section 35D(2) of this Act” insert “or under paragraph 5C(4) above or under rules made by virtue of paragraph 5A(3) above”;
- (ii) after “paragraph 10” insert “or 10B”;

(b) in sub-paragraph (3)—

- (i) after “section 35D(2) of this Act” insert “or under paragraph 5C(4) above or under rules made by virtue of paragraph 5A(3) above”;
- (ii) after “paragraph 10” insert “or 10B”.

(8) In paragraph 12 (recording of directions for suspension or conditional registration) after “section 35D of this Act” insert “or under paragraph 5C(4) of this Schedule”.

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(6) Paragraph 10A was inserted by the Health and Social Care Act 2008 but was never commenced and has now been repealed by section 231 of the Health and Social Care Act 2012 as commenced by [S.I. 2012/1319](#).