
STATUTORY INSTRUMENTS

2015 No. 794

The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015

PART 2

The Medical Practitioners Tribunal Service

Assessments: consequential provision

12.—(1) In section 31 of the Medical Act (power to make regulations with respect to the registers), in subsection (9)(1), after paragraph (b) insert—

“; and

(c) where such a person is required to submit to or undertake an assessment by virtue of paragraph 5A or 5C of Schedule 4, for requiring the Registrar or the General Council or a committee of the Council to take into account—

(i) whether the assessment was carried out,

(ii) whether any requirements imposed in respect of the assessment were complied with, and

(iii) if the assessment was carried out, the results of the assessment”.

(2) In section 31A of that Act (voluntary removal from any of the registers)(2), after subsection (1B) insert—

“(1C) Regulations under subsection (1)(c) above may include provision, where the person concerned is required to submit to or undertake an assessment by virtue of paragraph 5A or 5C of Schedule 4, for requiring the General Council or a committee of the Council to take into account—

(a) whether the assessment was carried out,

(b) whether any requirements imposed in respect of the assessment were complied with, and

(c) if the assessment was carried out, the results of the assessment.”

(3) In section 35B of that Act (notification and disclosure by GMC)(3), in subsection (4), after paragraph (d) insert—

“(da) decisions of a Medical Practitioners Tribunal to make a direction under paragraph 5A(3D) or 5C(4) of Schedule 4 and decisions of a Medical Practitioners Tribunal under section 35D that relate to such a direction;”.

(1) Section 31(9) was amended by [S.I. 2002/3135](#), [S.I. 2006/1914](#) and [S.I. 2010/234](#).

(2) Section 31A was inserted by section 2 of the Medical (Professional Performance) Act 1995 (c.51) and amended by [S.I. 2002/3135](#) and [S.I. 2010/234](#).

(3) Section 35B was substituted by [S.I. 2002/3135](#).

(4) In section 35D of that Act (functions of a Medical Practitioners Tribunal)(4), in subsections (4)(c) and (9)(a)(iii), for “rules made by virtue of paragraph 5A(3)” substitute “paragraph 5A(3D) or 5C(4)”.

(5) In subsections (5)(b), (6), (10)(a) and (12)(a) of that section, after “a health case or language case” insert “or a case of suspension under paragraph 5A(3D) or 5C(4) of Schedule 4”.

(6) In section 38 of that Act (the title to which becomes “Power to order immediate suspension etc.”)(5), in subsections (1) and (2), for “rules made by virtue of paragraph 5A(3)” substitute “paragraph 5A(3D) or 5C(4)”.

(7) In subsection (3) of that section—

(a) in paragraph (a), in sub-paragraph (i), after “10” insert “, 10A or 10B”,

(b) in that paragraph, omit sub-paragraph (ii) and the preceding “or”, and

(c) in paragraph (b), for “paragraph 5A(4) of that Schedule” substitute “paragraph 5A(5) or 5C(7) of Schedule 4”.

(8) In subsection (4) of that section, for “the Registrar” substitute “the MPTS”.

(9) In section 41 of that Act (restoration to the register)(6), after subsection (6) insert—

“(6A) Where the applicant is required to submit to or undertake an assessment by virtue of paragraph 5A or 5C of Schedule 4, a Medical Practitioners Tribunal, before deciding whether to give a direction under subsection (1), shall take into account—

(a) whether the assessment was carried out,

(b) whether any requirements imposed in respect of the assessment were complied with, and

(c) if the assessment was carried out, the results of the assessment.”

(10) In section 41C of that Act (effect of directions or orders on licence to practise)(7), in subsection (1), omit “or under rules made by virtue of paragraph 5A(3) of Schedule 4 to this Act”.

(11) In section 47 of that Act (appointment to be held only by fully registered and licensed person), in subsection (4)(a)(ii), for “rules made by virtue of paragraph 5A(3)” substitute “paragraph 5A(3D) or 5C(4)”.

(12) In paragraph 8 of Schedule 4 to the Medical Act (service of notifications of decisions)(8), in sub-paragraph (1)—

(a) after “paragraph”, in the second place it appears, insert “5A(3), (3A) or (3E) or”, and

(b) after “5C(3)” insert “, (3A)”.

(13) In paragraph 9 of that Schedule (extension of time for appealing)(9)—

(a) in paragraph (a), after “paragraph” insert “5A(3E) or”,

(b) before “5C(7)” insert “5A(5) or”, and

(c) omit “or under rules made by virtue of paragraph 5A(3) above”.

(14) After paragraph 10 of that Schedule insert—

“**10A.**—(1) A direction for suspension or for conditional registration given by a Medical Practitioners Tribunal under paragraph 5A(3D) is to take effect—

(4) Section 35D was substituted by S.I. 2002/3135 and amended by S.I. 2014/1101.

(5) Section 38 was substituted by S.I. 2002/3135.

(6) Section 41 was substituted by S.I. 2002/3135 and amended by S.I. 2006/1914.

(7) Section 41C was substituted by S.I. 2002/3135.

(8) Paragraph 8 of Schedule 4 was amended by S.I. 2007/3101 and S.I. 2014/1011.

(9) Paragraph 9 of Schedule 4 was amended by S.I.2014/1011.

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

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

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

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

(15) In paragraph 11 of that Schedule (timing of suspension or conditional registration)(**10**), in sub-paragraph (1)—

- (a) for “section 35D(2)” substitute “section 35D”,
- (b) before “5C(4)” insert “5A(3D) or”,
- (c) omit “or under rules made by virtue of paragraph 5A(3) above”,
- (d) for “subsection (5)” substitute “subsection (5)(a), (b) or (c)”, and
- (e) for “that section” substitute “section 35D”.

(16) In sub-paragraph (3) of that paragraph—

- (a) for “section 35D(2)” substitute “section 35D”,
- (b) before “5C(4)” insert “5A(3D) or”,
- (c) omit “or under rules made by virtue of paragraph 5A(3) above”, and
- (d) for “that section” substitute “section 35D”.

(17) In paragraph 12 of that Schedule (recording of directions for suspension or conditional registration)(**11**)—

- (a) before “5C(4)” insert “5A(3D) or”, and
- (b) omit “or under rules made by virtue of paragraph 5A(3) of this Schedule”.

(10) Paragraph 11 of Schedule 4 was amended by [S.I. 2014/1011](#).

(11) Paragraph 12 of Schedule 4 was amended by [S.I. 2014/1011](#).