
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

Proceedings in fitness to practise cases: procedural rules

8.—(1) In paragraph 1 of Schedule 4 to the Medical Act (the cross-heading preceding which becomes “Procedure of and evidence before the Investigation Committee, Medical Practitioners Tribunals and Interim Orders Tribunals”)(**1**), in sub-paragraph (1)—

- (a) omit “for the Investigation Committee, Interim Orders Panels and Fitness to Practise Panels”,
- (b) in paragraph (a), for “, an Interim Orders Panel or a Fitness to Practise Panel” substitute “or the MPTS”,
- (c) after that paragraph (but before the following “and”) insert—
 - “(aa) the arrangements by the MPTS for a Medical Practitioners Tribunal or Interim Orders Tribunal to consider a matter;”, and
- (d) in paragraph (b), for “that Committee or such a Panel” substitute “the Investigation Committee or a Medical Practitioners Tribunal or Interim Orders Tribunal”.

(2) After sub-paragraph (2) of that paragraph insert—

“(2ZA) Rules made under this paragraph in connection with the referral of a matter to, or the consideration of a matter by, a Medical Practitioners Tribunal or Interim Orders Tribunal may include provision for—

- (a) the Investigation Committee to continue to investigate the matter after the referral is made or consideration by the Tribunal has begun (as the case may be); and
- (b) the withdrawal of the matter (or part of it) by the Investigation Committee if they decide that the matter (or part of it) should not be considered by a Medical Practitioners Tribunal or they are of the opinion that an Interim Orders Tribunal should not consider making an order.

(2ZB) Section 35CC(1) applies to functions of the Investigation Committee by virtue of sub-paragraph (2ZA) as it applies to their functions under section 35C.”

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

- (a) for “an Interim Orders Panel or a Fitness to Practise Panel” substitute “an Interim Orders Tribunal or a Medical Practitioners Tribunal”, and

(1) Paragraph 1 of Schedule 4 was amended by [S.I. 2006/1914](#).

- (b) for “the Panel”, in each place it appears, substitute “the Tribunal”.
- (4) In sub-paragraph (4) of that paragraph—
 - (a) for “a Fitness to Practise Panel” substitute “a Medical Practitioners Tribunal”,
 - (b) for “a Panel”, in each place it appears, substitute “a Tribunal”, and
 - (c) for “the Panel” substitute “the Tribunal”.
- (5) After that sub-paragraph insert—
 - “(4A) Rules made under this paragraph in connection with any proceedings before a Medical Practitioners Tribunal may include provision for preliminary hearings.
 - (4B) Rules made under this paragraph in connection with any proceedings before a Medical Practitioners Tribunal or Interim Orders Tribunal which include provision with respect to the consequences of a failure to comply with those rules or with directions given by the Tribunal or a case manager appointed under paragraph 7A may, in particular—
 - (a) where the failure relates to the admission of evidence, enable the Tribunal to refuse to admit the evidence and enable a case manager appointed under paragraph 7A to direct the Tribunal to consider whether to admit the evidence;
 - (b) confer power on the Tribunal to draw adverse inferences;
 - (c) confer power on the Tribunal to award costs (or, in Scotland, expenses).
 - (4C) Rules made under this paragraph in connection with any proceedings before a Medical Practitioners Tribunal or Interim Orders Tribunal may include provision for the award of costs (or, in Scotland, expenses) in a case where a party’s, or a party’s representative’s, conduct of the proceedings has been unreasonable.
 - (4D) Provision by virtue of sub-paragraph (4B)(c) or (4C) may, in particular, include—
 - (a) provision for assessment or taxation of costs (or, in Scotland, taxation of expenses);
 - (b) provision for a wasted costs order (or, in Scotland, wasted expenses order);
 - (c) provision requiring regard to be had to a party’s ability to pay;
 - (d) provision conferring on either party a right of appeal against an award of costs to the High Court (or, in Scotland, against an award of expenses to the Court of Session);
 - (e) provision for the enforcement of an award of costs (or, in Scotland, expenses) in the same manner as if the award had been made by order of the county court (or, in Scotland, by decree of the sheriff court or, in Northern Ireland, by order of a county court).”
- (6) After sub-paragraph (4D) of paragraph 1 of that Schedule (inserted by paragraph (5) above) insert—
 - “(4E) Rules made under this paragraph in connection with any proceedings before a Medical Practitioners Tribunal or Interim Orders Tribunal may contain such provisions as appear to the General Council expedient for securing that, where the chair of the Tribunal is a legally qualified person and the chair advises the Tribunal on any question of law as to evidence, procedure or any other matter specified in the rules, the chair shall either—
 - (a) so advise in the presence of every party, or person representing a party, to the proceedings who appears at the proceedings, or
 - (b) inform every such party or person of the advice that the chair has tendered, if the advice is tendered after the Tribunal have begun their deliberations, whether by including the advice in the Tribunal’s decision or by some other means,

and the rules may also contain such incidental and supplementary provisions as appear to the General Council expedient.

(4F) In sub-paragraph (4E), “legally qualified person” means a person who satisfies the criteria set under paragraph 7(1C) in relation to legal qualifications and legal experience.”

(7) In paragraph 2 of that Schedule (oaths etc.)—

- (a) for “an Interim Orders Panel”, in each place it appears, substitute “an Interim Orders Tribunal”,
- (b) for “a Fitness to Practise Panel”, in each place it appears, substitute “a Medical Practitioners Tribunal”, and
- (c) for “or Panel”, in each place it appears, substitute “or Tribunal”.

(8) In paragraph 3 of that Schedule (validity of meetings where different members attend different meetings)—

- (a) in paragraph (a), for “an Interim Orders Panel or a Fitness to Practise Panel” substitute “a Medical Practitioners Tribunal or an Interim Orders Tribunal”,
- (b) in that paragraph, omit “or the General Council” and “or the Council”,
- (c) in that paragraph, for “the Committee, a Panel” substitute “the Committee or a Tribunal”,
- (d) in paragraph (b), after “refer the case to” insert “the MPTS for them to arrange for”,
- (e) in that paragraph, for “a Fitness to Practise Panel” substitute “a Medical Practitioners Tribunal”,
- (f) in that paragraph, omit “or to the General Council” and “or the Council”,
- (g) in that paragraph, omit “for the Panel”,
- (h) for “Committee, Panel”, in each place it appears, substitute “Committee or Tribunal”, and
- (i) omit “or Council” in each place it appears.

(9) Omit paragraph 3A of that Schedule (reference and transfer of cases to Investigation Committee).

(10) In paragraph 10 of that Schedule (taking effect of directions etc.)(2), in sub-paragraph (1), for “a Fitness to Practise Panel”, in each place it appears, substitute “a Medical Practitioners Tribunal”.

(11) In paragraph 10B of that Schedule (language cases: directions for suspension or conditional registration)(3), in sub-paragraph (1), for “the Fitness to Practise Panel” substitute “the Medical Practitioners Tribunal”.

(12) In paragraph 13 of that Schedule (meaning of “party”), for “an Interim Orders Panel or Fitness to Practise Panel” substitute “a Medical Practitioners Tribunal or Interim Orders Tribunal”.

(13) In section 43 of the Medical Act (the title to which becomes “Proceedings before the Investigation Committee, Medical Practitioners Tribunals and Interim Orders Tribunals”)(4), for “Interim Orders Panels and Fitness to Practise Panels” substitute “Medical Practitioners Tribunals and Interim Orders Tribunals”.

(14) In section 44 of that Act (effect of disqualification in another relevant European State on registration in UK)(5), in subsection (5)(b), after “paragraphs 1, 2,” insert “3,”.

(2) Paragraph 10 of Schedule 4 was amended by [S.I. 2006/1914](#).

(3) Paragraph 10B of Schedule 4 was inserted by [S.I. 2014/1011](#).

(4) Section 43 was substituted by [S.I. 2002/3135](#).

(5) Section 44 was substituted by [S.I. 2002/3135](#) and amended by [S.I. 2007/3101](#).