
DRAFT STATUTORY INSTRUMENTS

2015 No.

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: undertakings

9.—(1) In paragraph 1 of Schedule 4 to the Medical Act (proceedings before the Investigation Committee etc: procedure, evidence etc.), for sub-paragraph (2A) substitute—

“(2A) Rules made under this paragraph may include provision—

- (a) for enabling the Investigation Committee, whether before or after a matter has been referred to a Medical Practitioners Tribunal (but before the Tribunal’s hearing of the matter has begun), and in such circumstances as may be specified in the rules, to agree with the person concerned that the person will comply with such undertakings as the Committee consider appropriate; and
- (b) with respect to the procedure to be followed where any such undertakings are breached.

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

(2C) Rules made under this paragraph may include provision—

- (a) for enabling the General Council, where a Medical Practitioners Tribunal find that a person’s fitness to practise is impaired, to agree with the person concerned that the person will comply with such undertakings as the Council consider appropriate;
- (b) for enabling a Medical Practitioners Tribunal to take any such undertakings into account;
- (c) with respect to the procedure to be followed—
 - (i) where there is a breach of any such undertakings, or
 - (ii) where the General Council consider that any such undertakings should no longer apply and that a direction under section 35D should instead be given.

(2D) Rules making provision by virtue of sub-paragraph (2C)(c) may, make provision—

- (a) for enabling or requiring a Medical Practitioners Tribunal to review whether the undertakings should continue to apply;
- (b) for treating the requirements contained in the undertakings as if they were requirements specified in a direction given under section 35D(2)(c); and

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(c) for enabling a Medical Practitioners Tribunal to give a direction under section 35D—

- (i) where there is a breach of any such undertakings, or
- (ii) where the General Council consider that any such undertakings should no longer apply.

(2E) For the purposes of sub-paragraph (2D), the rules may apply sections 35D and 35E with such modifications, and may make such consequential modifications of this Act, as the Council think fit; and accordingly where the rules make such provision, references in this Act to section 35D or 35E include a reference to that section as so applied.”

(2) In section 35B of the Medical Act (publications etc. by GMC)(1), in subsection (4)(g), after “paragraph 1(2A)” insert “or (2C)”.

(1) Section 35B was substituted by S.I. 2002/3135 and amended by S.I. 2006/1914.