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STATUTORY INSTRUMENTS

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**2002 No. 3135**

**The Medical Act 1983 (Amendment) Order 2002**

**PART V**

**LICENCE TO PRACTISE AND REVALIDATION**

**Insertion of new Schedule 3B**

**11.** After Schedule 3A insert—

“SCHEDULE 3B

Section 29F

**LICENCE TO PRACTISE AND REVALIDATION: APPEALS**

**Manner of, and time for, appealing**

**1.—(1)** A medical practitioner who wishes to appeal to a Registration Appeals Panel under section 29F of this Act against a decision of a licensing authority must give written notice of appeal to the Registrar.

(2) Any such notice of appeal must be given within the period of 28 days beginning with the day on which the practitioner is given notice of the decision of the licensing authority.

(3) Sub-paragraph (2) above is subject to paragraph 2 below.

**Extension of time for appealing**

**2.** Where—

(a) any notice required by section 29B or 29D to be given to a medical practitioner by the Registrar is given by sending it to him by post; and

(b) the Registrar is satisfied, on the application of the practitioner, that the practitioner did not receive the notice within the period of 14 days beginning with the day on which the licensing authority gave the decision to which the notice relates,

the Registrar may, if he thinks fit, by authorisation in writing extend the time for giving notice of appeal under paragraph 1 above.

**Rules as to procedure and evidence**

**3.—(1)** The General Council shall make rules as to—

(a) the procedure to be followed; and

(b) the rules of evidence which are to apply,

in proceedings before a Registration Appeals Panel.

(2) Rules made under this paragraph shall include provision—

- (a) securing that notice of the time and place of any hearing is given, at such time and in such manner as may be specified in the rules, to the medical practitioner to whom the proceedings relate;
  - (b) securing that any party to proceedings before a Registration Appeals Panel shall, if he so requires, be entitled to be heard by the Panel;
  - (c) enabling any party to the proceedings to be represented by counsel or solicitor, or (if the rules so provide and the party so elects) by a person of such other description as may be specified in the rules; and
  - (d) requiring proceedings to be held in public if the medical practitioner to whom the proceedings relate so requests, unless and to the extent that the rules provide otherwise.
- (3) In sub-paragraph (2) above, “party”, in relation to any proceedings, means—
- (a) the medical practitioner to whom the proceedings relate; or
  - (b) the Solicitor to the General Council.
- (4) Paragraphs 2 and 7 of Schedule 4 to this Act shall apply in relation to proceedings before a Registration Appeals Panel as they apply in relation to proceedings before a Fitness to Practise Panel.
- (5) Rules under this paragraph shall not come into force until approved by order of the Privy Council.
- (6) The Privy Council may approve such rules—
- (a) as submitted to them; or
  - (b) subject to such modifications as appear to them to be requisite.
- (7) Where the Privy Council propose to approve rules under this paragraph subject to modifications, they shall—
- (a) notify the General Council of the modifications they propose to make; and
  - (b) consider any observations which the General Council may make on the modifications.
- (8) Before making rules under this paragraph the General Council shall consult such bodies of persons representing medical practitioners, or medical practitioners of any description, as appear to the Council requisite to be consulted.

#### **References to the Investigation Committee**

- 4.—(1) Where a matter—
- (a) arises in the course of proceedings relating to a medical practitioner before a Registration Appeals Panel; and
  - (b) ought, in the opinion of the Panel, to be investigated by the Investigation Committee,
- sub-paragraph (2) below applies.
- (2) In any such case, the Registration Appeals Panel may—
- (a) adjourn the proceedings; and
  - (b) give a direction to the Registrar to refer the matter to the Investigation Committee.

#### **Powers of Registration Appeal Panels disposing of an appeal**

5. In disposing of an appeal under section 29F of this Act by a medical practitioner against a decision of a licensing authority, the determinations that may be made by a Registration Appeals Panel are—

- (a) if the appeal is against a decision to refuse to grant a licence to practise, that a licence to practise should, or (as the case may be) should not, be granted to the practitioner;
  - (b) if the appeal is against a decision to withdraw a licence to practise, that a licence to practise should, or (as the case may be) should not, be withdrawn from the practitioner; or
  - (c) if the appeal is against a decision to refuse to restore a licence to practise, that a licence to practise should, or (as the case may be) should not, be restored to the practitioner,
- and a Panel may make such orders as to costs (or, in Scotland, expenses) as they think fit.

### **Successful appeals**

6.—(1) This paragraph applies in any case where, on an appeal under section 29F of this Act by a medical practitioner against a decision of a licensing authority, a Registration Appeals Panel determines—

- (a) that a licence to practise should be granted to the medical practitioner;
- (b) that a licence to practise should not be withdrawn from the medical practitioner; or
- (c) that a licence to practise should be restored to the medical practitioner.

(2) The Registration Appeals Panel shall give notice to the Registrar informing him of the determination and directing him accordingly—

- (a) to grant the licence;
- (b) not to withdraw the licence; or
- (c) to restore the licence.

(3) The Registrar shall give notice of the determination to the medical practitioner.

(4) Section 29H of this Act applies in relation to any notice under sub-paragraph (2) above.

### **Unsuccessful appeals**

7.—(1) This paragraph applies in any case where, on an appeal under section 29F of this Act by a medical practitioner against a decision of a licensing authority, a Registration Appeals Panel determines—

- (a) that a licence to practise should not be granted to the medical practitioner;
- (b) that a licence to practise should be withdrawn from the medical practitioner; or
- (c) that a licence to practise should not be restored to the medical practitioner.

(2) The Registration Appeals Panel shall give notice to the Registrar—

- (a) informing him of the determination; and
- (b) if the determination is that a licence to practise should be withdrawn from the medical practitioner, directing him to withdraw the licence.

(3) The Registrar shall give the medical practitioner notice of—

- (a) the determination; and
- (b) his right under paragraph 8 below to appeal against the determination.

(4) Any direction under sub-paragraph (2)(b) above has effect subject to section 29F(3) of this Act (no implementation pending appeal).

(5) Section 29H of this Act applies in relation to any notice under sub-paragraph (2) above.

**Further appeal to court against determination within paragraph 7**

8.—(1) Where, on an appeal under section 29F of this Act by a medical practitioner, a Registration Appeals Panel makes a determination falling within sub-paragraph (1) of paragraph 7 above, the practitioner may appeal against the determination.

(2) Any such appeal must be made within the period of 28 days beginning with the day on which the practitioner is given notice under paragraph 7 above of the determination of the Registration Appeals Panel.

(3) Any such appeal must be made to a county court or, in Scotland, to the sheriff.

(4) In sub-paragraph (3) above “the sheriff” means the sheriff in whose sheriffdom is situated the address—

- (a) which is shown in the register as the practitioner’s address; or
- (b) which would be so shown, if the practitioner were registered.

(5) On appeal under this paragraph from a Registration Appeals Panel, the county court or the sheriff may—

- (a) dismiss the appeal;
- (b) allow the appeal and quash the decision appealed against; or
- (c) remit the case to the Registrar for him to refer it to a Registration Appeals Panel to dispose of in accordance with the directions of the court (or the sheriff),

and may make such orders as to costs (or, in Scotland, expenses) as it (or he) thinks fit.”.