
EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Medical Act 1983 (“the Act”).

This Order is made under sections 60 and 62(4) of the Health Act 1999. Under paragraph 9(1) of Schedule 3 to the Health Act 1999, the Secretary of State published a draft of the Order and invited representations to be made on it. A copy of the report about the consultation is available from the Department of Health’s website (www.doh.gov.uk/gmcreform).

Article 3 provides for the main objective of the General Medical Council (“the Council”) in exercising its functions to be the protection, promotion and maintenance of the health and safety of the public.

Article 4 makes various amendments to Schedule 1 to the Act concerning the constitution of the Council and in particular provides for—

- the Council to consist of no more than thirty-five members (article 4(1));
- an electoral scheme to divide any of the constituencies for elected members into two or more constituencies (article 4(3)(a));
- the disclosure of information in an election (article 4(3)(c));
- the limitations on the type of bodies that can be designated as appointing bodies to be removed (article 4(4));
- the members of the Council who are registered medical practitioners also to hold a licence to practise (article 4(3)(b) and (4));
- all the nominated members of the Council to be lay persons (article 4(5));
- the Council to make rules for the suspension or removal from office of members (article 4(6)); and
- the Constitution Order establishing the Council to make provision regarding the filling of casual vacancies amongst the elected members of the Council and for the quorum of the Council (article 4(7) and (8) respectively).

Article 5 provides for the abolition of the Interim Orders Committee, the Preliminary Proceedings Committee, the Professional Conduct Committee, the Assessment Referral Committee, the Committee on Professional Performance and the Health Committee. It provides for the establishment of Interim Orders Panels, Registration Decisions Panels, Registration Appeals Panels, an Investigation Committee and Fitness to Practise Panels as statutory committees of the Council.

Article 6 makes changes to Part III of the Act concerning registration of persons qualifying overseas. In particular—

- section 19 is substituted for a provision limited to EEA nationals and other persons with rights under Community law (article 6(2));
- new section 21A is inserted into the Act which provides for full registration of specialists and general practitioners who have qualifications from outside the United Kingdom (article 6(5));
- section 22 is amended to allow for a wider range of medical appointments to be specified by the Council for the purposes of obtaining limited registration (article 6(6)); and
- sections 28 and 29 are repealed thereby providing for the abolition of the Review Board (article 6(11)).

Status: This is the original version (as it was originally made).

Article 7 makes changes to Part IV of the Act (general provisions concerning registration). In particular—

- it provides for the register of medical practitioners and register of medical practitioners with limited registration to be published, including electronically (article 7(4)); and
- allows for the Registrar to issue certificates regarding the registration status of a medical practitioner and whether or not a practitioner holds a licence to practise.

Article 8 inserts a new section 34B and Schedule 3A concerning registration appeals. Schedule 3A provides for a right of appeal to a Registration Appeals Panel from decisions made under the sections of the Act specified in paragraph 2(1) of that Schedule (appealable registration decisions). There is a right of appeal from a Registration Appeals Panel to the county court or in Scotland to the sheriff. The Schedule in part implements Directive [2001/19/EC](#) (O.J. No. L 206, 31.7.2001, p.1) which inserts article 42d into Directive [93/16/EEC](#) (O.J. No. L 165, 7.7.1993, p.1). A Transposition Note has been prepared and is to be found on the Department of Health’s website at the above address.

Article 9 makes further and supplementary provision to articles 6 to 9. In particular, it abolishes the overseas list.

Article 10 inserts new sections 29A to 29J into the Act.

- new section 29A provides for the Council to make regulations with respect to the grant or refusal to grant or withdrawal of a licence to practise by a licensing authority and for the revalidation of medical practitioners;
- new section 29B makes more detailed provision regarding the power to make regulations under section 29A;
- new section 29C makes provision for a licensing authority to make a referral to the Investigation Committee where it is concerned about the fitness to practise of a medical practitioner;
- new section 29D provides for regulations under section 29A to make provision for the restoration of a licence to practise;
- new section 29E makes provision about evidence;
- new section 29F provides for an appeal from a decision of a licensing authority to a Registration Appeals Panel. It provides for new Schedule 3B (which is inserted into the Act by article 11 below) to apply to such appeals;
- new section 29G provides for the Council to publish guidance for medical practitioners relating to revalidation and the restoration of a licence to practise;
- new section 29H makes provision regarding notices; and
- new section 29J makes miscellaneous provision.

Article 11 inserts a new Schedule 3B into the Act regarding appeals to a Registration Appeals Panel in respect of a decision to refuse to grant or restore, or to withdraw, a licence to practise. It provides for an appeal from a Registration Appeals Panel to the county court or in Scotland to the sheriff.

Article 12 makes supplementary provision on the introduction of a licence to practise. In particular, it makes it an offence to pretend to hold a licence to practise (article 12(7)).

Article 13 substitutes Part V of the Act (professional conduct and fitness to practise). It provides for the Investigation Committee to investigate allegations that a medical practitioner’s fitness to practise is impaired (new section 35C). A Fitness to Practise Panel will be able to make a direction for the erasure, suspension or conditional registration of a medical practitioner whose fitness to practise it finds is impaired (new section 35D). An Investigation Committee or a Fitness to Practise Panel will be able to give a warning to a practitioner regarding his future conduct or performance (new sections 35C(6) and 35D(3) respectively). New sections 35CC and 35E make provision supplementary to new sections 35C and 35D respectively. New section 41C sets out the effect of a direction for erasure

or an order for suspension on the holding of a licence to practise. New section 44A provides for the effect on registration of a conviction or disqualification.

Article 14 substitutes Schedule 4 to the Act (proceedings before the Professional Conduct, Health and Preliminary Proceedings Committees) with new provisions relating to the Investigation Committee, Interim Orders Panels and Fitness to Practise Panels.

Article 15 makes miscellaneous amendments to the Act. In particular, it provides for the Council to—

- submit annual reports to the Privy Council (article 15(4));
- co-operate with public authorities and other bodies or persons (article 15(7)); and
- inform medical practitioners and the public about their work and the exercise of their functions (article 15(7)).

Article 16 and Schedules 1 and 2 make consequential, transitional, transitory and savings provisions relating to other provisions in the Order.