STATUTORY INSTRUMENTS

2007 No. 3101

The European Qualifications (Health and Social Care Professions) Regulations 2007

PART 2

MEDICAL PRACTITIONERS: MEDICAL ACT 1983

Insertion of Schedule 2A

32. Before Schedule 3 insert—

"SCHEDULE 2A Section 18

VISITING MEDICAL PRACTITIONERS FROM RELEVANT EUROPEAN STATES

Application and interpretation

1. This Schedule applies to an exempt person who is lawfully established in medical practice in a relevant European State other than the United Kingdom.

2. In this Schedule—

(a) a "visiting practitioner" means an exempt person to whom this Schedule applies;

(b) the "home State", in relation to a visiting practitioner, means the relevant European State in which the practitioner is lawfully established in medical practice; and

(c) a reference to the provision of occasional medical services is a reference to the provision of medical services in the United Kingdom on a temporary and occasional basis.

Registration in respect of provision of occasional medical services

3.—(1) A visiting practitioner is entitled to be registered under this Schedule in the register if the practitioner is entitled under paragraph 4 or 7 to provide occasional medical services; and the Registrar shall give effect to the entitlement.

(2) A visiting practitioner who is entitled under sub-paragraph (1) to be registered in the register, but who is not registered in the register's list of visiting medical practitioners from relevant European States, shall be treated as registered in that list.

(3) Sub-paragraph (4) applies where a person's entitlement under sub-paragraph (1) to be registered in the register ceases because, by reason of the operation of paragraph 8(1), (2) or (5), the person ceases to be entitled under this Schedule to provide occasional medical services.

(4) If the person's name is registered in the register's list of visiting medical practitioners from relevant European States, the Registrar may erase the person's name from that list.

(5) Sub-paragraphs (1) to (4) are not to be taken to prejudice the application, in relation to persons registered in the register on the basis of entitlement under sub-paragraph (1), of any other

provision of this Act under which a medical practitioner's name may be erased from the register or under which a medical practitioner's registration in the register may be suspended.

Entitlement to provide occasional medical services: first year

4. A visiting practitioner is entitled to provide occasional medical services if—

(a) the practitioner has complied with the requirements of paragraph 5, and

(b) where the practitioner's case falls within regulation 3(9)(a), (c) or (e) of the General Systems Regulations, the provision by the practitioner of occasional medical services is in accordance with regulations 14 to 16 of those Regulations (the practitioner having, in particular, successfully completed any adaptation period, or passed any aptitude test, that the practitioner may be required to undertake pursuant to Part 2 of those Regulations),

but paragraph 8 contains provision about the duration of entitlement under this paragraph.

First provision of services: required documents

5.—(1) A visiting practitioner who proposes to provide occasional medical services for the first time must, before providing any such services, send or produce to the Registrar the required documents.

(2) The required documents are—

(a) a written declaration that—

(i) states the practitioner's wish to provide occasional medical services, and

(ii) contains details of the insurance cover, or other means of personal or collective protection, that the practitioner has with regard to professional liability;

(b) if the practitioner is a national of a relevant European State, proof of nationality;

(c) if the practitioner is not a national of a relevant European State, proof of the Community right by virtue of which the practitioner is an exempt person;

(d) evidence of medical qualifications (see paragraph 6); and

(e) a certificate (or certificates) issued by a competent authority in the practitioner's home State confirming—

(i) that the practitioner is lawfully established in medical practice in that State, and

(ii) that the practitioner is not prohibited (whether on a permanent or temporary basis) from practising as a medical practitioner there.

(3) A declaration under sub-paragraph (2)(a) may be supplied by any means.

6.—(1) Subject to sub-paragraph (4), the evidence referred to in paragraph 5(2)(d) is evidence of the European-recognised qualifications which entitle the visiting practitioner to provide, in the practitioner's home State, the medical services that the practitioner proposes to provide in the United Kingdom on a temporary and occasional basis.

(2) For the purposes of this paragraph and subject to sub-paragraph (4), the evidence of qualifications must, if the visiting practitioner proposes to provide any services as a general practitioner or a specialist medical practitioner in the United Kingdom on a temporary and occasional basis, include evidence of the European-recognised qualifications which entitle the practitioner to provide, in the practitioner's home State, those services as a general practitioner or a specialist medical practitioner.

(3) This sub-paragraph applies to a visiting practitioner whose case falls within regulation 3(9)(a), (c) or (e) of the General Systems Regulations (with the result that the practitioner is not entitled

to provide occasional medical services unless their provision by the practitioner is in accordance with regulations 14 to 16 of those Regulations).

(4) If sub-paragraph (3) applies to a visiting practitioner, the evidence referred to in paragraph 5(2)(d) of the practitioner's medical qualifications is evidence of the qualifications which entitle the practitioner to practise as a medical practitioner in his home State.

(5) In this paragraph, "European-recognised qualifications" means qualifications which relevant European States are required by the Directive to recognise.

Entitlement to provide occasional medical services after first year: renewals

7.—(1) Sub-paragraph (2) applies where the Registrar receives the required renewal documents from a visiting practitioner who is entitled under this Schedule to provide occasional medical services.

(2) The visiting practitioner is entitled to continue to provide occasional medical services, but paragraph 8 contains provision about the duration of entitlement continued under this sub-paragraph.

(3) Sub-paragraph (4) applies where the Registrar receives the required renewal documents from a visiting practitioner—

(a) who is not entitled under this Schedule to provide occasional medical services;

(b) who has been previously entitled under this Schedule to provide occasional medical services; and

(c) whose registration in the list of visiting medical practitioners from relevant European States is not suspended.

(4) The visiting practitioner is once again entitled to provide occasional medical services but, in a case where the practitioner's name is not in the list of visiting medical practitioners from relevant European States as a result of erasure otherwise than under paragraph 3(4), only if the Registrar decides, after having regard (in particular) to the fact of that erasure and the reasons for it, that the entitlement should be renewed.

Paragraph 8 contains provision about the duration of entitlement under this sub-paragraph.

(5) In relation to a visiting practitioner "the required renewal documents" are—

(a) a renewal declaration; and

(b) each evidence of change document (if any).

(6) In this paragraph "renewal declaration", in relation to a visiting practitioner, means a written declaration that—

(a) states the practitioner's wish to provide occasional medical services in a further year; and

(b) contains details of the insurance cover, or other means of personal or collective protection, that the practitioner has with regard to professional liability.

(7) Where a document—

(a) is, in relation to a visiting practitioner, one of the required documents for the purposes of paragraph 5,

(b) is not a declaration under paragraph 5(2)(a), and

(c) substantiates a matter as respects which there has been a material change since the practitioner last (whether under paragraph 5 or this paragraph) supplied the then-current version of the document to the Registrar,

the version of the document current when under this paragraph the practitioner supplies a renewal declaration to the Registrar is an "evidence of change document" for the purposes of sub-paragraph (5)(b).

(8) A renewal declaration supplied under this paragraph may be supplied by any means.

Duration of entitlement to provide occasional medical services

8.—(1) Unless an entitlement under paragraph 4 or 7(4) is continued (or further continued) by paragraph 7(2), the entitlement ceases at the end of the year that begins with the end of the day on which the Registrar received the documents whose receipt gave rise to the entitlement.

(2) Where an entitlement under paragraph 4 or 7(4) is continued (or further continued) by paragraph 7(2), the entitlement is extended so as to cease at the end of the year that begins with the end of the relevant day.

(3) For the purposes of sub-paragraph (2)—

(a) if the day on which the Registrar receives the documents whose receipt gives rise to the continuation (or further continuation) is an anniversary of the start day, "the relevant day" means the day on which the Registrar receives those documents;

(b) otherwise, "the relevant day" means the anniversary of the start day that is the first such anniversary to occur after the Registrar receives the documents whose receipt gives rise to the continuation (or further continuation).

(4) In sub-paragraph (3) "the start day", in relation to an entitlement under paragraph 4 or 7(4), means the day on which the Registrar receives the documents whose receipt gives rise to the entitlement.

(5) An entitlement under this Schedule to provide occasional medical services ceases if—

(a) the visiting practitioner concerned becomes established in medical practice in the United Kingdom; or

(b) a relevant decision is made against the visiting practitioner concerned.

(6) In sub-paragraph (5) "relevant decision", in relation to a visiting practitioner, means a decision made by a competent or judicial authority in the practitioner's home State that has the effect that the practitioner—

(a) ceases in that State to be registered or otherwise officially recognised as a medical practitioner; or

(b) is prohibited (whether on a permanent or temporary basis) from practising as a medical practitioner in that State.

(7) If in the case of a visiting practitioner—

(a) the practitioner's registration in the list of visiting medical practitioners from relevant European States is suspended or the practitioner's name is erased from that list, and

(b) immediately before the time when the suspension or (as the case may be) erasure takes effect, the practitioner is entitled under this Schedule to provide occasional medical services,

that entitlement ceases at that time.

Conditions

9.—(1) Paragraph (2) applies if—

(a) the establishment of a visiting practitioner in the practitioner's home State is subject to a condition relating to the practitioner's medical practice;

(b) the practitioner's name is registered in the register; and

(c) for any of the purposes of this Act it falls to be decided whether the practitioner's fitness to practise is or may be impaired on the ground of misconduct.

(2) The matters that may be counted as misconduct include (in particular) any act or omission by the visiting practitioner during the course of the provision by the practitioner of occasional medical services that is, or would be if the condition applied in relation to medical practice outside the practitioner's home State, a breach of the condition.

(3) In paragraphs (1) and (2) "condition" includes limitation.".