

**Changes to legislation:** Medical Act 1983, Paragraph 5A is up to date with all changes known to be in force on or before 22 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## SCHEDULES

### [<sup>F1</sup>SCHEDULE 4

#### [<sup>F1</sup>PROCEEDINGS BEFORE THE INVESTIGATION COMMITTEE, MEDICAL PRACTITIONERS TRIBUNALS AND INTERIM ORDERS TRIBUNALS]

##### Textual Amendments

- F1** Sch. 4 substituted (7.7.2004 for the substitution of Sch. 4 para. 5A(2) for specified purposes and paras. 1, 5A(1)(3)(3A)(9), 6, 7(3)(4)(6) as notified in the London Gazette dated 2.7.2004, 1.11.2004 in so far as not already in force as notified in the London Gazette dated 8.10.2004) by [The Medical Act 1983 \(Amendment\) Order 2002 \(S.I. 2002/3135\)](#), arts. 1(2)(3), **14** (with Sch. 2 and savings in The Medical Act 1983 (Amendment) Order 2002 (Saving Provision) Order of Council 2004 (S.I. 2004/1731), arts. 1(1), 2)
- F1** Sch. 4 title substituted (3.8.2015) by [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 \(S.I. 2015/794\)](#), arts. 1(3), 7; S.I. 2015/1579, art. 2(d) (with art. 3)

#### [<sup>F1</sup>Professional performance assessments and health assessments]

##### Textual Amendments

- F1** Words in Sch. 4 para. 5A(1)(a) and cross-heading substituted (3.8.2015) by [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 \(S.I. 2015/794\)](#), arts. 1(3), **10(1)(a)**; S.I. 2015/1579, art. 2(g)

- 5A (1) The General Council may make rules—
- (a) authorising the giving of directions by any of—
    - (i) the Investigation Committee,
    - (ii) [<sup>F2</sup>a Medical Practitioners Tribunal],
    - (iii) such other persons as may be specified in the rules,requiring [<sup>F3</sup>an assessment of a kind referred to in sub-paragraph (1A)] to be carried out;
  - (b) specifying circumstances in which such an assessment may be carried out otherwise than in accordance with a direction.

[<sup>F4</sup>(1A) The assessments referred to in sub-paragraph (1) are—

- (a) in the case of a registered person, an assessment of the standard of a person's professional performance;
- (b) in the case of a person applying under section 41, or by virtue of section 31(8) or 31A(1)(c), for his name to be restored to the register, an assessment of the standard of professional performance of which the person would be capable if the person's name were to be restored to the register;

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- (c) in either case, an assessment of the person’s physical or mental health.]
- (2) [<sup>F5</sup>An assessment by virtue of this paragraph is to be carried out in accordance with such directions as the Registrar may give as to—
  - (a) whether the assessment is to be carried out by an Assessment Team or by an individual assessor;
  - (b) the form or content of the assessment.
- (2ZA) Where the assessment is to be carried out by an Assessment Team, the Team—
  - (a) must include at least one fully registered person selected by the Registrar; and
  - (b) is otherwise to be constituted in accordance with directions given by the Registrar.
- (2ZB) Where the assessment is to be carried out by an individual assessor, the assessor must be a fully registered person selected by the Registrar.
- (2ZC) The General Council may make rules as to—
  - (a) the appointment of fully registered persons and of other persons to a list of persons eligible to be members of an Assessment Team and the appointment of fully registered persons to a list of persons eligible to be individual assessors;
  - (b) the procedure to be followed in carrying out an assessment by virtue of this paragraph;
  - (c) the procedure to be followed following the making of a report on an assessment carried out by virtue of this paragraph.
- (2ZD) Where there are rules made under sub-paragraph (2ZC)(a), a person selected under sub-paragraph (2ZA) or (2ZB) must be a person who is included in the applicable list of eligible persons provided for in the rules.
- (2ZE) The General Council may make rules authorising the Assessment Team which, or individual assessor who, is to carry out an assessment by virtue of this paragraph to determine the procedure to be followed in carrying out the assessment in so far as it is not provided for in rules under sub-paragraph (2ZC)(b).]
- (2A) An assessment of the standard of a registered person’s professional performance may include an assessment of his professional performance at any time prior to the assessment and may include an assessment of the standard of his professional performance at the time of the assessment.
- [<sup>F6</sup>(2B) An assessment of a person’s physical or mental health may include an assessment of the person’s physical or mental health at any time prior to the assessment and may include an assessment of the person’s physical or mental health at the time of the assessment.]
- [<sup>F7</sup>(3) If the Registrar is of the opinion that a registered person who is required to submit to an assessment by virtue of this paragraph has failed to submit to that assessment or to comply with requirements imposed in respect of the assessment, the Registrar—
  - (a) may refer that matter to the MPTS for them to arrange for it to be considered by a Medical Practitioners Tribunal, and
  - (b) if he does so, must without delay serve on the person concerned a notification of the making of such a referral.

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- (3A) If the Investigation Committee are of the opinion that a registered person who is required to submit to an assessment by virtue of this paragraph has failed to submit to that assessment or to comply with requirements imposed in respect of that assessment—
- (a) the Investigation Committee may direct the Registrar to refer that matter to the MPTS for them to arrange for it to be considered by a Medical Practitioners Tribunal; and
  - (b) the Registrar, having been given a direction under paragraph (a), must make the referral to the MPTS and must without delay serve on the person concerned a notification of the making of the referral.
- (3B) Where a matter is referred to the MPTS under sub-paragraph (3) or (3A), the MPTS must arrange for the matter to be considered by a Medical Practitioners Tribunal.
- (3C) Where a Medical Practitioners Tribunal, having given a direction by virtue of this paragraph to require a registered person to submit to an assessment, are of the opinion that the person concerned has failed to submit to that assessment or to comply with requirements imposed in respect of that assessment, the Tribunal must consider that matter.
- (3D) The Medical Practitioners Tribunal, on their consideration of a matter under sub-paragraph (3B) or (3C), may, if they think fit—
- (a) direct that the person’s registration in the register is to be suspended (that is to say, is not to have effect) during such period not exceeding twelve months as may be specified in the direction; or
  - (b) direct that the person’s registration is to be conditional on the person’s compliance, during such period not exceeding three years as may be specified in the direction, with such requirements so specified as the Tribunal think fit to impose for the protection of members of the public or in the person’s interests.
- (3E) Where, under sub-paragraph (3D), the Tribunal give a direction for suspension or a direction for conditional registration, the MPTS must without delay serve on the person concerned notification of the direction and of the person’s right to appeal against it under sub-paragraph (5).
- (3F) Where, under sub-paragraph (3D), the Tribunal give a direction for suspension or a direction for conditional registration, or where the Tribunal decide not to give a direction under that sub-paragraph, the MPTS must without delay serve on the Registrar and the Professional Standards Authority for Health and Social Care notification of the direction or decision.
- (3G) While a person’s registration in the register is suspended by virtue of a direction under sub-paragraph (3D)—
- (a) the person is to be treated as not being registered in the register notwithstanding that the person’s name still appears in it, but
  - (b) sections 31A, 35C, 35CC, 35D, 35E and 39 are to continue to apply to the person.]
- [<sup>F8</sup>(3H) In deciding whether to give a direction under sub-paragraph (3D), a Medical Practitioners Tribunal must have regard to the over-arching objective.]
- (5) An appeal shall lie to the relevant court (within the meaning of section 40(5) of this Act) from any direction of [<sup>F9</sup>a Medical Practitioners Tribunal] given [<sup>F10</sup>under sub-

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paragraph (3D)] above, and on an appeal under this sub-paragraph the relevant court may—

- (a) quash the direction;
- (b) substitute for the direction any other direction which [<sup>F11</sup>the Tribunal] could have made; or
- (c) remit the case to [<sup>F12</sup>the MPTS for them to arrange for][<sup>F9</sup>a Medical Practitioners Tribunal] to [<sup>F13</sup>dispose of it] in accordance with the court's directions,

and the decision of the court on any appeal under this sub-paragraph shall be final.

[<sup>F14</sup>(5A) Subject to paragraph 9, an appeal under sub-paragraph (5) must be brought before the end of 28 days beginning with the date on which notification of the direction was served under sub-paragraph (3E).]

- (6) An Assessment Team [<sup>F15</sup>or an individual assessor], for the purposes of carrying out an assessment of the standard of a person's professional performance—
  - (a) may require the production of, inspect and take copies of any records (in whatever form they are held) arising out of or relating to the person's professional practice; and
  - (b) where such records are kept otherwise than in legible form, may require a copy of them to be given to the Team [<sup>F16</sup>or the assessor] in legible form.
- (7) A person who, without reasonable excuse, obstructs an Assessment Team [<sup>F17</sup>or an individual assessor] in the execution of <sup>F18</sup>... powers under sub-paragraph (6) above shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (8) Nothing in this paragraph shall require or permit any disclosure of information which is prohibited by or under any other enactment [<sup>F19</sup>or the [<sup>F20</sup>UK GDPR]]; but where information is held in a form in which the prohibition operates by reason of the fact that the information is capable of identifying an individual, an Assessment Team [<sup>F17</sup>or an individual assessor] may, in exercising <sup>F18</sup>... powers under sub-paragraph (6) above, require that the information be put into a form in which it is not capable of identifying an individual.

[<sup>F21</sup>(8A) In determining for the purposes of sub-paragraph (8) whether a disclosure is prohibited, it is to be assumed for the purposes of paragraph 5(2) of Schedule 2 to the Data Protection Act 2018 and paragraph 3(2) of Schedule 11 to that Act (exemptions from certain provisions of the data protection legislation: disclosures required by law) that the disclosure is required by this paragraph.]

- (9) Sub-paragraphs (6) and (7) of paragraph 1 above shall apply in relation to rules made under this paragraph as they apply in relation to rules under that paragraph.

[<sup>F22</sup>(10) In this paragraph a reference to the standard of a <sup>F23</sup>... person's professional performance includes the standard of the person's knowledge of English and, in particular, whether the person has the necessary knowledge of English.

- (11) But an assessment [<sup>F24</sup>of a person's professional performance] carried out by virtue of this paragraph must not be limited to an assessment of whether a person has the necessary knowledge of English.

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(12) Where an assessment is required to be undertaken by virtue of paragraph 5C below, that assessment [<sup>F25</sup>shall not be undertaken as part of an assessment carried out by virtue of this paragraph] .]

[<sup>F26</sup>(13) The General Council may by rules provide that an assessment of a person’s knowledge of English undertaken as part of an assessment of the person’s professional performance by virtue of this paragraph is to be undertaken in accordance with such provision as is made in rules under paragraph 5C(2) subject to such modifications as the General Council consider necessary or expedient.]]

<sup>F27</sup>(14) . . . . .

**Textual Amendments**

- F2** Words in Sch. 4 para. 5A(1)(a)(ii) substituted (31.12.2015) by 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 (S.I. 2015/794), arts. 1(3), **10(1)(a)**; S.I. 2015/1952, art. 2(g)
- F3** Words in Sch. 4 para. 5A(1)(a) substituted (3.8.2015) by 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 (S.I. 2015/794), arts. 1(3), **10(1)(b)**; S.I. 2015/1579, art. 2(g)
- F4** Sch. 4 para. 5A(1A) inserted (3.8.2015) by 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 (S.I. 2015/794), arts. 1(3), **10(2)**; S.I. 2015/1579, art. 2(g)
- F5** Sch. 4 para. 5A(2)-(2ZE) substituted for Sch. 4 para. 5A(2) (3.8.2015 for specified purposes, 31.12.2015 in so far as not already in force) by 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 (S.I. 2015/794), arts. 1(3), **10(3)**; S.I. 2015/1579, art. 2(g); S.I. 2015/1952, art. 2(g)
- F6** Sch. 4 para. 5A(2B) inserted (3.8.2015) by 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 (S.I. 2015/794), arts. 1(3), **10(4)**; S.I. 2015/1579, art. 2(g)
- F7** Sch. 4 paras. 5A(3)-(3G) substituted for Sch. 4 para. 5A(3)(3A) (31.12.2015) by 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 (S.I. 2015/794), arts. 1(3), **10(5)**; S.I. 2015/1952, art. 2(g)
- F8** Sch. 4 para. 5A(3H) inserted (31.12.2015) by 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 (S.I. 2015/794), arts. 1(3), **21(10)** (with art. 1(4)); S.I. 2015/1952, art. 2(m)
- F9** Words in Sch. 4 para. 5A(5) substituted (31.12.2015) by 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 (S.I. 2015/794), arts. 1(3), **10(6)(a)**; S.I. 2015/1952, art. 2(g)
- F10** Words in Sch. 4 para. 5A(5) substituted (31.12.2015) by 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 (S.I. 2015/794), arts. 1(3), **10(6)(b)**; S.I. 2015/1952, art. 2(g)
- F11** Words in Sch. 4 para. 5A(5) substituted (31.12.2015) by 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 (S.I. 2015/794), arts. 1(3), **10(6)(c)**; S.I. 2015/1952, art. 2(g)
- F12** Words in Sch. 4 para. 5A(5)(c) substituted (31.12.2015) by 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 (S.I. 2015/794), arts. 1(3), **10(7)(a)**; S.I. 2015/1952, art. 2(g)
- F13** Words in Sch. 4 para. 5A(5)(c) substituted (31.12.2015) by 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 (S.I. 2015/794), arts. 1(3), **10(7)(b)**; S.I. 2015/1952, art. 2(g)

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- F14** Sch. 4 para. 5A(5A) inserted (31.12.2015) by 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 (S.I. 2015/794), arts. 1(3), **10(8)**; S.I. 2015/1952, art. 2(g)
- F15** Words in Sch. 4 para. 5A(6) inserted (31.12.2015) by 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 (S.I. 2015/794), arts. 1(3), **10(9)(a)**; S.I. 2015/1952, art. 2(g)
- F16** Words in Sch. 4 para. 5A(6)(b) inserted (31.12.2015) by 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 (S.I. 2015/794), arts. 1(3), **10(9)(b)**; S.I. 2015/1952, art. 2(g)
- F17** Words in Sch. 4 para. 5A(7)(8) inserted (31.12.2015) by 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 (S.I. 2015/794), arts. 1(3), **10(10)(a)**; S.I. 2015/1952, art. 2(g); S.I. 2015/1952, art. 2(g)
- F18** Word in Sch. 4 para. 5A(7)(8) omitted (31.12.2015) by virtue of 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 (S.I. 2015/794), arts. 1(3), **10(10)(b)**; S.I. 2015/1952, art. 2(g); S.I. 2015/1952, art. 2(g)
- F19** Words in Sch. 4 para. 5A(8) inserted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 25(2)** (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)
- F20** Words in Sch. 4 para. 5A(8) substituted (31.12.2020) by The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 3 para. 13(a)** (with Sch. 3 para. 112); 2020 c. 1, Sch. 5 para. 1(1)
- F21** Sch. 4 para. 5A(8A) substituted (25.5.2018) by Data Protection Act 2018 (c. 12), s. 212(1), **Sch. 19 para. 25(3)** (with ss. 117, 209, 210); S.I. 2018/625, reg. 2(1)(g)
- F22** Sch. 4 paras. 5A(10)-(12) inserted (29.4.2014) by The Medical Act 1983 (Amendment) (Knowledge of English) Order 2014 (S.I. 2014/1101), arts. 1(1), **9(2)** (with arts. 11, 12)
- F23** Word in Sch. 4 para. 5A(10) omitted (3.8.2015) by virtue of 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 (S.I. 2015/794), arts. 1(3), **11(1)**; S.I. 2015/1579, art. 2(h)
- F24** Words in Sch. 4 para. 5A(11) inserted (3.8.2015) by 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 (S.I. 2015/794), arts. 1(3), **11(2)**; S.I. 2015/1579, art. 2(h)
- F25** Words in Sch. 4 para. 5A(12) substituted (3.8.2015) by 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 (S.I. 2015/794), arts. 1(3), **11(3)**; S.I. 2015/1579, art. 2(h)
- F26** Sch. 4 para. 5A(13) inserted (3.8.2015) by 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 (S.I. 2015/794), arts. 1(3), **11(4)**; S.I. 2015/1579, art. 2(h)
- F27** Sch. 4 para. 5A(14) omitted (31.12.2020) by virtue of The Data Protection, Privacy and Electronic Communications (Amendments etc) (EU Exit) Regulations 2019 (S.I. 2019/419), reg. 1(2), **Sch. 3 para. 13(b)** (with Sch. 3 para. 112); 2020 c. 1, Sch. 5 para. 1(1)

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**Changes and effects yet to be applied to :**

- Sch. 4 para. 5A(1A) inserted by 2008 c. 14 Sch. 7 para. 23(8)(b)
- Sch. 4 para. 5A(3B)-(3G) inserted by 2008 c. 14 Sch. 7 para. 23(8)(e)
- Sch. 4 para. 5A(5A) inserted by 2008 c. 14 Sch. 7 para. 23(8)(g)
- Sch. 4 para. 5A(1)(a)(ii) repealed by 2008 c. 14 Sch. 7 para. 23(8)(a)Sch. 15 Pt. 2
- Sch. 4 para. 5A(3) repealed by 2008 c. 14 Sch. 7 para. 23(8)(d)Sch. 15 Pt. 2
- Sch. 4 para. 5A(3A) repealed by 2008 c. 14 Sch. 7 para. 23(8)(d)Sch. 15 Pt. 2
- Sch. 4 para. 5A(5)(b) word substituted by 2008 c. 14 Sch. 7 para. 23(8)(f)(iii)
- Sch. 4 para. 5A(2) words inserted by 2008 c. 14 Sch. 7 para. 23(8)(c)(ii)
- Sch. 4 para. 5A(2) words substituted by 2008 c. 14 Sch. 7 para. 23(8)(c)(i)
- Sch. 4 para. 5A(5) words substituted by 2008 c. 14 Sch. 7 para. 23(8)(f)(i)
- Sch. 4 para. 5A(5) words substituted by 2008 c. 14 Sch. 7 para. 23(8)(f)(ii)
- Sch. 4 para. 5A(5)(c) words substituted by 2008 c. 14 Sch. 7 para. 23(8)(f)(iv)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act words substituted by 2005 c. 4 Sch. 11 para. 6

**Whole provisions yet to be inserted into this Act (including any effects on those provisions):**

- s. 29B(2A)-(2C) inserted by S.I. 2008/3131 Sch. 1 para. 9(2)
- s. 29B(2A)(a) word substituted by S.I. 2010/234 Sch. 1 para. 2
- s. 29B(3A) inserted by S.I. 2008/3131 Sch. 1 para. 9(3)
- s. 29E(1)(d)(e) inserted by S.I. 2008/3131 Sch. 1 para. 12(2)(b)
- s. 29E(2)(e)(f) inserted by S.I. 2008/3131 Sch. 1 para. 12(3)(b)
- s. 29F(1)(d)(e) inserted by S.I. 2008/3131 Sch. 1 para. 14(3)
- s. 35C(2)(f)(g) inserted by S.I. 2008/1774 Sch. 1 para. 15 (This amendment not applied to legislation.gov.uk. It was due to come into force on the coming into force of s. 44(1) of the Safeguarding Vulnerable Groups Act 2006 (c. 47), see art. 1(4). S. 44(1) was repealed without ever being in force on 10.9.2012 by 2012 c. 9, s. 75(6), Sch. 10 Pt. 5; S.I. 2012/2234, art. 2)
- s. 35ZA inserted by 2008 c. 14 Sch. 7 para. 4
- Sch. 1 para. 1A(1)(b)(iv)(v) inserted by S.I. 2024/374 Sch. 5 para. 1(2)(b)(iii)
- Sch. 3B para. 5(d)(e) inserted by S.I. 2008/3131 Sch. 1 para. 19(2)(b)
- Sch. 3B para. 6(1)(d)(e) inserted by S.I. 2008/3131 Sch. 1 para. 19(3)(a)(ii)
- Sch. 3B para. 6(2)(d)(e) inserted by S.I. 2008/3131 Sch. 1 para. 19(3)(b)(ii)
- Sch. 3B para. 7(1)(d)(e) inserted by S.I. 2008/3131 Sch. 1 para. 19(4)(a)(ii)
- Sch. 3B para. 7(2)(c) and word inserted by S.I. 2008/3131 Sch. 1 para. 19(4)(b)(ii)