
STATUTORY INSTRUMENTS

2002 No. 3135

The Medical Act 1983 (Amendment) Order 2002

PART V

LICENCE TO PRACTISE AND REVALIDATION

Insertion of Part IIIA

10. After Part III (registration of persons qualifying overseas) insert—

“PART IIIA

LICENCE TO PRACTISE AND REVALIDATION

Duty of General Council to make regulations

Regulations as to licence to practise and revalidation

29A.—(1) Any reference in this Act to a “licence to practise” is a reference to a licence granted under and in accordance with this Part to a medical practitioner by a licensing authority.

(2) The General Council shall make regulations with respect to licences to practise.

(3) The provisions made by regulations under subsection (2) above must include provision for or in connection with each of the matters specified in subsection (4) below.

(4) Those matters are—

- (a) grant of a licence to practise;
- (b) refusal of a licence to practise;
- (c) withdrawal of a licence to practise; and
- (d) revalidation of a medical practitioner of a prescribed description as a condition of his continuing to hold a licence to practise.

(5) In this Part—

“licensing authority” means—

- (a) the Registrar;
- (b) a Registration Decisions Panel;
- (c) such other committee of the General Council as may be prescribed; or
- (d) such other officer of the General Council as may be prescribed;

“prescribed” means prescribed by regulations made by the General Council under subsection (2) above; and

“revalidation” means evaluation of a medical practitioner’s fitness to practise.

Grant, refusal and withdrawal of licence

Grant, refusal and withdrawal of licence

29B.—(1) Regulations under section 29A above shall provide for a licence to practise to be granted to a medical practitioner—

- (a) on first registration under this Act as a medical practitioner with either full registration or limited registration;
- (b) on being provisionally registered under this Act; and
- (c) in such other cases or circumstances as may be prescribed.

(2) Regulations under section 29A above shall provide for the withdrawal of a licence to practise from a medical practitioner—

- (a) where the practitioner has failed to comply with prescribed requirements of regulations under section 29A above;
- (b) where the licence to practise was fraudulently procured or otherwise incorrectly granted;
- (c) where the medical practitioner requests that the licence to practise be withdrawn; and
- (d) in such other cases or circumstances as may be prescribed.

(3) Regulations under section 29A above shall make provision as to the procedure to be followed in connection with the grant or refusal, or the withdrawal, of a licence to practise by a licensing authority.

(4) If a licensing authority decides—

- (a) to refuse to grant a licence to practise to a medical practitioner; or
- (b) to withdraw a licence to practise from a medical practitioner,

the Registrar shall give the practitioner notice in accordance with subsection (5) below.

(5) The notice required by subsection (4) above is notice of—

- (a) the decision;
- (b) the reasons given for the decision by the licensing authority concerned; and
- (c) the practitioner’s right of appeal under section 29F below.

(6) Section 29H below applies in relation to a notice under subsection (4) above.

Referral to the Investigation Committee

29C.—(1) Regulations under section 29A above shall provide that where, in the course of revalidation, it appears to a licensing authority that the fitness to practise of the medical practitioner concerned may be impaired, the authority may refer the matter to the Investigation Committee.

(2) If a matter is referred to the Investigation Committee in accordance with subsection (1) above, the licensing authority shall take no further action until the matter has been considered—

- (a) by the Investigation Committee; or
- (b) if it is referred by that Committee to a Fitness to Practise Panel, by such a Panel, and has been referred back to the authority.

Restoration of licence

Restoration of licence

29D.—(1) The General Council shall make regulations under section 29A above for and in connection with authorising or requiring a licensing authority, in such cases or circumstances as may be prescribed, to restore a licence to practise to a medical practitioner whose licence to practise has been withdrawn.

(2) Regulations by virtue of subsection (1) above shall make provision as to the procedure to be followed in connection with the restoration, or the refusal of the restoration, of a licence to practise by a licensing authority.

(3) If a licensing authority refuses to restore a licence to practise to a medical practitioner, the Registrar shall give the practitioner notice of—

- (a) the decision;
 - (b) the reasons given for the decision by the licensing authority concerned; and
 - (c) the practitioner's right of appeal under section 29F below.
- (4) Section 29H below applies in relation to a notice under subsection (3) above.

Supplementary provisions

Evidence

29E.—(1) Regulations under section 29A above may make provision for a licensing authority—

- (a) to refuse to grant a licence to practise to a medical practitioner;
- (b) to withdraw a licence to practise from a medical practitioner; or
- (c) to refuse to restore a licence to practise to a medical practitioner,

in any case where the medical practitioner does not provide the licensing authority with such evidence or information as the authority may reasonably request for any of the purposes specified in subsection (2) below.

(2) The purposes are those of—

- (a) determining whether to grant a licence to practise to the practitioner;
- (b) revalidation of the practitioner;
- (c) determining whether to withdraw a licence to practise from the practitioner; and
- (d) determining whether to restore a licence to practise to the practitioner.

(3) For the purpose of carrying out any function under sections 29A to 29D above in relation to a medical practitioner, a licensing authority may require—

- (a) any medical practitioner (other than that practitioner); or
- (b) any other person,

who, in the opinion of the authority, is able to supply information, or produce any document, which appears relevant to the discharge of any such function, to supply such information or produce such a document.

(4) For the purpose of reviewing procedures relating to—

- (a) revalidation; or
- (b) the grant, withdrawal or restoration of a licence to practise,

a licensing authority may require any medical practitioner or other person to supply information or produce any document.

(5) Nothing in subsection (3) or (4) above shall require or permit any disclosure of information which is prohibited by or under any other enactment.

(6) But where information is held in a form in which the prohibition operates because the information is capable of identifying an individual, a licensing authority may, in exercising its functions under subsection (3) or (4) above, require that the information be put into a form which is not capable of identifying that individual.

(7) In determining for the purposes of subsection (5) above whether a disclosure is not prohibited, by reason of being a disclosure of personal data which is exempt from the non-disclosure provisions of the Data Protection Act 1998 by virtue of section 35(1) of that Act, it shall be assumed that the disclosure is required by or under this section.

(8) Subsections (3) and (4) do not apply in relation to the supplying of information or the production of a document which a person could not be compelled to supply or produce in civil proceedings before the relevant court (within the meaning of section 40(5) below).

(9) In this section “enactment” includes—

- (a) an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament; and
- (b) any provision of, or any instrument made under, Northern Ireland legislation.

Appeals

29F.—(1) If a licensing authority decides under this Part—

- (a) to refuse to grant a licence to practise to a medical practitioner;
- (b) to withdraw a licence to practise from a medical practitioner; or
- (c) to refuse to restore a licence to practise to a medical practitioner,

the practitioner may appeal to a Registration Appeals Panel.

(2) Schedule 3B (which provides for the procedures to be followed before a Registration Appeals Panel) shall apply in relation to any appeal under subsection (1) above.

(3) A decision under this Part to withdraw a licence to practise from a medical practitioner shall not be carried into effect—

- (a) until the time for bringing any appeal against the decision has expired without an appeal being brought; or
- (b) where an appeal is brought, until the date on which the appeal is finally disposed of or abandoned or fails by reason of its non-prosecution.

Guidance

29G.—(1) The General Council may publish guidance for medical practitioners relating to the information and documents to be provided, and any other requirements to be satisfied—

- (a) for the purposes of revalidation; or
- (b) for securing restoration of a licence to practise.

(2) In preparing any such guidance in relation to revalidation, the General Council shall take into account such similarities as there may be between any information or documents to be provided, or any other requirements to be satisfied—

- (a) for the purposes of revalidation; and

- (b) for the purposes of any scheme for the appraisal of medical practitioners which applies within the health service, the Scottish health service or the Northern Ireland health service.
- (3) In subsection (2) above—
 - “the health service” means the health service established in pursuance of the National Health Service Act 1946;
 - “the Northern Ireland health service” means any service provided in pursuance of Article 4(a) of the Health and Personal Social Services (Northern Ireland) Order 1972; and
 - “the Scottish health service” means the health service established in pursuance of the National Health Service (Scotland) Act 1947.

Notices

- 29H.**—(1) This section applies to any notice required to be given to a medical practitioner under—
- (a) section 29B or 29D above; or
 - (b) paragraph 6 or 7 of Schedule 3B to this Act.
- (2) Any such notice may be so given—
- (a) by delivering it to him;
 - (b) by leaving it at his proper address;
 - (c) by sending it by a registered post service; or
 - (d) by sending it by a postal service which provides for the delivery of the notice by post to be recorded.
- (3) For the purposes of this section and of section 7 of the Interpretation Act 1978 in its application to this section, a medical practitioner’s proper address shall be—
- (a) his address in the register; or
 - (b) if the conditions in subsection (4) below are satisfied, his last known address.
- (4) The conditions are that—
- (a) the practitioner’s last known address differs from his address in the register; and
 - (b) it appears to the body or person giving the notice that a letter sent to the practitioner at his last known address is more likely to reach him.
- (5) For the purposes of this section—
- (a) the giving of a notice effected by sending it by post shall be deemed to have been effected at the time when the letter containing it would be delivered in the ordinary course of post; and
 - (b) so much of section 7 of the Interpretation Act 1978 as relates to the time when service is deemed to have been effected shall not apply to a notice sent by post.

Miscellaneous

- 29J.**—(1) Regulations under section 29A above may provide for the charging of a fee to a medical practitioner in respect of the cost of—
- (a) his revalidation; or
 - (b) the consideration of any application made by him for restoration of a licence to practise.

(2) Any sum payable by a medical practitioner under subsection (1) above may be recovered by the General Council and, in England and Wales or Northern Ireland, shall be recoverable summarily as a civil debt.

(3) Regulations under section 29A above may make different provision for different purposes, cases or circumstances.

(4) Regulations under section 29A above shall not have effect until approved by order of the Privy Council.

(5) Before making regulations under section 29A above, 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.”

Changes to legislation:

There are currently no known outstanding effects for the The Medical Act 1983 (Amendment) Order 2002, Section 10.