

SCHEDULE 2

TRANSITIONAL PROVISIONS

Fitness to practise

6. Except as provided for in paragraphs 7 and 8 below, any allegation that has been made to the General Council concerning a medical practitioner's professional conduct, professional performance or fitness to practise prior to the coming into force of the new section 35C of this Act that has not been referred to the Professional Conduct Committee, the Committee on Professional Performance or the Health Committee shall be dealt with by the Investigation Committee in accordance with new section 35C of the Act.

7. Any case that has been referred to and is being considered by the Preliminary Proceedings Committee at the date of the coming into force of the new section 35C of this Act shall be dealt with by that Committee in accordance with old section 42 of, and old Schedule 4 to, the Act (including rules made under that Schedule), and—

- (a) if the Committee decides to refer the case for inquiry, it shall be dealt with by a Fitness to Practise Panel; and
- (b) the matter shall thereafter be disposed of by that Panel in accordance with paragraph 10 below.

8.—(1) Any case that has been referred to and is being considered by the Assessment Referral Committee on the date of the coming into force of the new section 35C of the Act shall be dealt with by that Committee in accordance with the rules made under the old paragraph 5A of Schedule 4 to the Act, and if the Committee decide that an assessment needs to be carried out, the matter shall be referred to the Investigation Committee to be dealt with in accordance with the new section 35C of the Act.

(2) Any case that has been referred to but has not yet been considered by the Assessment Referral Committee on the date of the coming into force of the new section 35C of the Act shall be dealt with by a Fitness to Practise Panel in accordance with the rules made under the old paragraph 5A of Schedule 4 to the Act, and if the Panel decide that an assessment needs to be carried out, the matter shall be dealt with thereafter by that Panel in accordance with the rules made under the new paragraph 5A of Schedule 4 to the Act.

9. Any reference in any enactment or instrument to a notification under the new section 35C(5) of the Act of a decision of the Investigation Committee to refer a case to a Fitness to Practise Panel shall be construed as including a reference to a notification under the old section 42(3) of the Act of a decision by the Preliminary Proceedings Committee to refer a practitioner to the Professional Conduct Committee or the Health Committee.

10. Any case which—

- (a) has been referred to the Professional Conduct Committee, the Health Committee or the Committee on Professional Performance but which has not been disposed of on the date of the coming into force of the new section 35D of the Act; or
- (b) is referred to a Fitness to Practise Panel after the coming into force of the new section 35D of the Act in accordance with paragraph 7 above,

shall be disposed of by a Fitness to Practise Panel either in accordance with the old sections 36 to 38 of, and the old Schedule 4 to, the Act (including rules made under that Schedule) or in accordance with the rules made under the old paragraph 5A of Schedule 4 to the Act.

Changes to legislation: There are currently no known outstanding effects for the The Medical Act 1983 (Amendment) Order 2002, Fitness to practise. (See end of Document for details)

11. Any reference in any enactment (including an enactment comprised in the Act) or instrument to a direction given by a Fitness to Practise Panel shall be construed as including a reference to a corresponding direction made by—

- (a) the Professional Conduct Committee under the old section 36 or 38 of the Act;
- (b) the Health Committee under the old section 37 or 38 of the Act;
- (c) the Committee on Professional Performance under the old section 36A or 38 of, or under rules made under the old paragraph 5A of Schedule 4 to, the Act; or
- (d) a Fitness to Practise Panel under either the old sections 36 to 38 of, and the old Schedule 4 to, the Act (including rules made under that Schedule) or in accordance with the rules made under the old paragraph 5A of Schedule 4 to the Act.

12. An appeal which relates to a direction or order—

- (a) made under the old sections 36 to 37, 39, 41, 44 or 45 of the Act; or
- (b) which was an appealable decision for the purposes of the old section 40 of the Act,

shall be dealt with in accordance with old section 40 of the Act, except as provided in paragraph 13 below.

13. Where any case would have been remitted under the old section 40(7) of the Act to the Professional Conduct Committee, the Health Committee or the Committee on Professional Performance, that case shall be remitted instead to the Registrar for him to refer it to a Fitness to Practise Panel to be dealt with under the old sections 36 to 38 of, and the old Schedule 4 to, the Act (including rules made under that Schedule) or in accordance with the rules made under the old paragraph 5A of Schedule 4 to the Act.

14.—(1) An application to the court under the old section 38 of the Act shall be dealt with in accordance with the old section 38 of the Act.

(2) An appeal from any direction of the Committee on Professional Performance given by virtue of the old paragraph 5A(3) of Schedule 4 to the Act shall lie to the court and shall be dealt with in accordance with the old paragraph 5A(4) of Schedule 4 to the Act.

15. Where, prior to the coming into force of the new section 35D of the Act—

- (a) a medical practitioner has agreed to an assessment of his professional performance under rules made under the old paragraph 5A of Schedule 4 to the Act; or
- (b) an assessment of a medical practitioner has to be carried out by virtue of a direction given in rules made under the old paragraph 5A of Schedule 4 to the Act,

a Fitness to Practise Panel may not direct in any proceedings relating to that assessment that his name shall be erased under the new section 35D(2) of the Act.

16. In relation to any application under the old section 41 of the Act that has not been determined by the Professional Conduct Committee on the coming into force of article 6(2) of this Order relating to a person—

- (a) who was provisionally registered under the old section 21 but;
- (b) to whom the new section 19(2) does not apply,

the Professional Conduct Committee shall not direct that his name be restored by way of provisional registration under the new section 21 of the Act, but may instead direct that he be registered with limited registration under the new section 22 of the Act.

17. Any application under the old section 41 of the Act that has not been determined by the Professional Conduct Committee on the date of the coming into force of the new section 41 of the Act (whether or not it is brought fully into force) shall be disposed of by a Fitness to Practise Panel

in accordance with the old section 41 of, and the old Schedule 4 to, the Act (including any rules made under that Schedule), but if the application relates to a person—

- (a) who was provisionally registered under the old section 21 but;
- (b) but to whom the new section 19(2) does not apply,

a Fitness to Practise Panel shall not direct that his name be restored by way of provisional registration under the new section 21 of the Act, but may instead direct that he be registered with limited registration under the new section 22 of the Act.

18. In relation to any application under the new section 41 of the Act relating to a person—

- (a) who was provisionally registered under the old section 21 but;
- (b) to whom the new section 19(2) does not apply,

a Fitness to Practise Panel shall not direct that his name be restored by way of provisional registration under the new section 21 of the Act, but may instead direct that he be registered with limited registration under the new section 22 of the Act.

19. Any application under the new section 41 of the Act that has not been determined by a Fitness to Practise Panel on the date of the coming into force of the new section 41(7) of the Act shall be disposed of as if that provision were not in force.

20. Any case that is pending before the Interim Orders Committee under the old section 41A(1) or (2) of the Act on the date of the coming into force of the new section 41A of the Act shall be disposed of by an Interim Orders Panel or a Fitness to Practise Panel in accordance with the new section 41A of, and the new Schedule 4 to, the Act (including rules made under that Schedule).

21. Any case that is pending before the Interim Orders Committee, the Professional Conduct Committee, the Health Committee or the Committee on Professional Performance under the old section 41A(3) of the Act on the date of the coming into force of the new section 41A of the Act shall be disposed of by an Interim Orders Panel or a Fitness to Practise Panel in accordance with the new section 41A(3) of, and the new Schedule 4 to, the Act (including rules made under that Schedule).

22. Any application that is pending before the court under the old section 41A(6) of the Act before the date of the coming into force of the new section 41A of the Act shall be disposed of in accordance with the old section 41A of, and the old Schedule 4 to, the Act (including rules made under that Schedule).

23. Where, prior to the coming into force of the new section 41A of the Act, the Professional Conduct Committee, the Health Committee or the Committee on Professional Performance has made an order under the old section 41A(3)(c) or (d) of the Act, a Fitness to Practise Panel may in accordance with the old section 41B of, and the old Schedule 4 to, the Act (including rules made under that Schedule) do any of the things mentioned in old section 41B(2), read with the old section 41B(3), of the Act.

24. Any reference in any enactment (including an enactment comprised in the Act) or instrument to an order made by a Fitness to Practise Panel or an Interim Orders Panel under the new section 41A or 41B of the Act shall be construed as including a reference to an order made under the old section 41A or 41B of the Act by the Interim Orders Committee, the Professional Conduct Committee, the Health Committee or the Committee on Professional Performance or an order made by a Fitness to Practise Panel by virtue of paragraph 23 of this Schedule.

25. Any case that is pending before the Professional Conduct Committee under the old section 44(5) of the Act on the date of the coming into force of the new section 44 of the Act shall be disposed of by a Fitness to Practise Panel in accordance with the new section 44(5) of the Act.

Changes to legislation: *There are currently no known outstanding effects for the The Medical Act 1983 (Amendment) Order 2002, Fitness to practise. (See end of Document for details)*

26. Any case that is pending before the Professional Conduct Committee under the old section 45 of the Act on the date of the coming into force of the new section 45 of the Act shall be disposed of by a Fitness to Practise Panel in accordance with the new section 45 of the Act.

27. Any reference in the new section 45(1) of the Act to a finding of a Fitness to Practise Panel shall be construed as including a reference to a finding of a kind referred to in the old section 45(1) (a) or (b) of the Act by the Professional Conduct Committee.

28. The references in the new section 45(3) and (4) of the Act to a prohibition order under the new section 45 of the Act shall be construed as including a reference to a prohibition order imposed under the old section 45(1) of the Act.

29. For the purposes of the new section 45(6) of the Act, applications made under the old section 45 of the Act for termination of a prohibition order shall be treated as if made under the new section 45 of the Act.

30. For the purposes of the new section 45(8) of the Act, a direction under the new section 45(6) of the Act shall be construed as including a reference to a direction made under the old section 45(6) of the Act.

Changes to legislation:

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