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STATUTORY INSTRUMENTS

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**2006 No. 1914**

**The Medical Act 1983 (Amendment) and  
Miscellaneous Amendments Order 2006**

**PART 17**

**Transitional, transitory and saving provisions**

**Interpretation of this Part**

**83.** In this Part—

“register of medical practitioners”, except in the phrase “the register of medical practitioners with limited registration” shall be construed in accordance with section 2(2) of the Act;

“register of medical practitioners with limited registration” shall be construed in accordance with section 2(2) of the Act, as it had effect immediately before article 4 of this Order came into force,

and other expressions used in this Part and in the Act have the meanings they bear in the Act.

**Transfer of names from the register of medical practitioners with limited registration to the register of medical practitioners**

**84.—**(1) Subject to paragraph (2), if immediately before article 4 comes into force a person’s name is included in the register of medical practitioners with limited registration, he shall be registered in the principal list of the register of medical practitioners with effect from the day on which article 4 comes into force—

- (a) as a fully registered person; or
- (b) as a provisionally registered person, if the direction by virtue of which he was registered with limited registration had the effect of limiting his registration to registration for the purposes of—
  - (i) employment as a pre-registration house officer, or
  - (ii) participating in a programme for provisionally registered doctors.

(2) If, immediately before article 4 comes into force, a person’s name is included in the register of medical practitioners with limited registration but his registration is suspended (whether temporarily or indefinitely) or he is the subject of proceedings which, but for the closure of the register of medical practitioners with limited registration, could have led to the erasure of his name from or his suspension from that register, the Registrar—

- (a) may determine that his name is not to be entered into the register of medical practitioners; and
- (b) shall, in any event, dispose of the matter in such manner as he considers just (which may include delaying entering his name in the register of medical practitioners until a suspension is terminated).

(3) Where a person's name has been erased from the register of medical practitioners with limited registration (or is due to be erased, pending the outcome of an appeal)—

- (a) if he appeals successfully against erasure and that appeal is determined after this article comes into force, his name shall be entered in the register of medical practitioners; and
- (b) if he applies to have his name entered in the register after this article comes into force, the Registrar may, in appropriate cases, determine that the application is to be treated as an application for restoration to the register under—

- (i) section 41 of the Act, or
- (ii) regulations made under section 31 or 31A of the Act.

(4) Where a person is registered in the register of medical practitioners by virtue of this article—

- (a) if his previous registration in the register of medical practitioners with limited registration was subject to any condition, other than a limitation imposed by virtue of section 22 of the Act which does not relate to a fitness to practise matter, the Registrar may determine that his registration in the register of medical practitioners is to be subject to the same condition; and
- (b) for the purposes of section 44D(1) of the Act, if he is fully registered, he shall be treated as newly fully registered under section 21B of the Act on the date he is registered by virtue of this article.

(5) Where a condition that relates to a fitness to practice matter is imposed by virtue of paragraph (4)(a), that condition is to be considered a condition imposed by virtue of a direction for conditional registration given by a Fitness to Practise Panel under section 35D of the Act, except that—

- (a) section 35E(1) shall not apply to the determination of the Registrar under paragraph (4) (a); and
- (b) the direction (if still in force) shall be reviewed by a Fitness to Practice Panel (once, pursuant to this paragraph)—
  - (i) if the person on whom the condition is imposed requests them to do so, or
  - (ii) not more than three years after the condition was originally imposed or last reviewed (before the person was registered in the principal list), whichever is the later.

### **Outstanding applications for entry into the register of medical practitioners with limited registration**

**85.** If on the day article 4 comes into force there is an outstanding application for a person's name to be entered in the register of medical practitioners with limited registration, that application shall be treated as if it were an application under section 21B or, where appropriate, 21C of the Act.

### **Arrangements for registration of persons with overseas qualifications pending the introduction of programmes for provisionally registered doctors**

**86.** If on the day article 35 comes into force article 24 is not yet in force, pending the coming into force of article 24, section 21C of the Act shall apply as if—

- (a) in subsection (2)(b), for “for embarking upon an acceptable programme for provisionally registered doctors,” there were substituted “to be engaged in employment as mentioned in section 10(2) above,”; and
- (b) in subsection (3), for “to participate in an acceptable programme for provisionally registered doctors” there were substituted “to be engaged in employment as mentioned in section 10(2) above”.

### Visiting eminent specialists

**87.**—(1) If, immediately before article 37 comes into force, a person is registered under section 27 of the Act, then on and after the coming into force of article 37, that person shall be treated as registered under either section 27A or 27B of the Act, whichever the Registrar shall determine, until the expiration of the period that was specified in the direction in respect of him under section 27(1) of the Act.

(2) For the purposes of section 27A(4) of the Act, any period of registration under section 27 of the Act that began before article 37 came into force shall be discounted.

### Indemnity arrangements

**88.**—(1) If on the day article 69 comes into force article 65 is not yet in force, pending the coming into force of article 65, in section 44C of the Act—

- (a) subsection (1) shall apply as if for “holds a licence to practise” there were substituted “is registered by virtue of any provision of this Act”;
- (b) subsection (4)(a) shall apply as if—
  - (i) for “seeking a licence to practise” there were substituted “seeking registration by virtue of any provision of this Act”, and
  - (ii) for “granted a licence to practise” there were substituted “registered”;
- (c) subsection (4)(b) shall apply as if for “holds a licence to practise” there were substituted “is registered by virtue of any provision of this Act”;
- (d) subsection (6) shall apply as if for “holds a licence to practise” there were substituted “is registered by virtue of any provision of this Act”;
- (e) subsection (7) shall apply as if for “A licensing authority may refuse to grant a licence to practise to”, there were substituted “The Registrar may refuse to register (whether or not directed to do so by the Council)”;
- (f) subsection (8) shall apply as if—
  - (i) for “holds a licence to practise” there were substituted “is registered by virtue of any provision of this Act”, and
  - (ii) for paragraph (a) there were substituted the following paragraph—
    - “(a) the Registrar may erase that person’s name from the register; or”.

(2) Where a decision is taken under—

- (a) section 44C(7) of the Act, as modified by paragraph (1)(e), to refuse to register a person; or
- (b) under section 44C(8) of the Act, as modified by paragraph (1)(f), to erase a person’s name from the register,

that decision is an appealable registration decision for the purposes of Schedule 3A to the Act, and “appealable registration decision” in that Schedule shall be construed accordingly.

(3) For the purposes of making provision with respect to the restoration to the register of medical practitioners whose names have been erased from it by virtue of section 44C(8) of the Act, as modified by paragraph (1)(f), section 31(8) of the Act shall apply as if after “section 30(5) above” there were inserted “or section 44C(8) below, as modified by article 88(1)(f) of the Medical Act 1983 (Amendment) and Miscellaneous Amendments Order 2006,”.

### Recognition of approved practice settings pending the introduction of revalidation

**89.**—(1) If on the day article 70 comes into force article 65 is not yet in force, pending the coming into force of article 65, in section 44D of the Act—

- (a) subsection (1) shall apply as if for “before his first revalidation in accordance with Part 3A above after he is registered” there were substituted “for such period as the General Council shall specify”; and
  - (b) subsection (2) shall apply as if for “before his first revalidation in accordance with Part 3A above after his name is restored to the register” there were substituted “for such period as the General Council shall specify”.
- (2) Where—
- (a) by virtue of this article, a specified period becomes a requirement in respect of a person’s registration under the Act; and
  - (b) article 65 thereafter comes into force,
- as regards that person, section 44D of the Act shall continue to apply as modified by paragraph (1).

### **Obtaining information to facilitate revalidation in anticipation of the introduction of revalidation**

**90.**—(1) For the purposes of assisting the General Council, any licensing authority or any future licensing authority in preparing for the introduction of revalidation under Part 3A of the Act, a person authorised by the General Council may require any person who, in his opinion, is able to supply information or produce any document which appears relevant to assisting a licensing authority or future licensing authority in determining when and how to revalidate a medical practitioner to supply such information or produce such a document (whether the information or document relates to that person or to a third party).

(2) Nothing in paragraph (1) shall require or permit any disclosure of information which is prohibited by or under any other enactment, but where that prohibition arises because the information is in a form which allows for the identification of an individual, the person authorised by the General Council may require that information to be put in a form which does not allow for the identification of that individual.

(3) In determining for the purposes of paragraph (2) whether a disclosure of personal data is prohibited, it shall be assumed, for the purposes of section 35(1) of the Data Protection Act 1998<sup>(1)</sup> (disclosures required by law or made in connection with legal proceedings etc.), that disclosure of the personal data is required by paragraph (1).

(4) If a person fails to supply any information or produce any document within 14 days beginning with the date of his being required to do so under paragraph (1), the General Council may seek an order of the relevant court requiring the information to be supplied or the document to be produced.

(5) For the purposes of this article, the “relevant court” means—

- (a) the county court; or
- (b) if the person against whom the order is sought is domiciled in Scotland, the sheriff in whose sheriffdom that person is domiciled.

### **Legal assessors rules**

**91.** Any rules made under paragraph 7 of Schedule 4 to the Act, as in force before the coming into force of article 57(3), which came into force before the coming into force of article 57(3)—

- (a) shall remain in force after the coming into force of article 57(3), notwithstanding the changes to that paragraph made by article 57(3); and
- (b) may be amended or revoked after the coming into force of article 57(3) by rules made under that paragraph, as amended by article 57(3).

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(1) 1998 c. 29.

**Other transitional provisions etc.**

**92.**—(1) The Privy Council may by order make such further transitional, transitory or saving provisions as it considers appropriate.

(2) The power to make an order under paragraph (1) above is exercisable by statutory instrument, and—

(a) a statutory instrument containing such an order shall be subject to annulment in pursuance of a resolution of either House of Parliament; and

(b) for the purposes of section 1 of the Statutory Instruments Act 1946<sup>(2)</sup> (definition of “Statutory Instrument”), this article shall have effect as if contained in an Act of Parliament.

(3) The power vested in the Privy Council to make an order under paragraph (1) above may be exercised by any two or more members of the Council.

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(2) 1946 c. 36; section 1 has been amended by the Government of Wales Act 1998 (c. 38), Schedule 12, paragraph 2.