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*Reform of the General
Medical Council*
A paper for consultation

May 2002

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Foreword

We trust our lives to the professionalism of doctors. This document sets out proposals for reform of the General Medical Council (GMC) which have been developed by the GMC, working closely with the Government, patient representatives and other medical professional bodies. The proposals are also an important element in the Government's programme of reform to assure the quality of patient care and set in place systems to take early action when things go wrong.

The Government, the GMC, the medical profession and patient representatives are united in aiming to secure public approval for the way doctors are regulated. The NHS Plan promises modernised and more accountable professional regulation, and we are bringing about important changes that will be welcomed by professionals, patients and employers. The changes to the GMC and the way it works must be seen in the context of the roles of new NHS organisations, such as the National Clinical Assessment Authority and the National Patient Safety Agency, and others with a responsibility for assuring the quality and safety of patient care. The proposals for reform set out in this document have been developed by the GMC in consultation with patients and the medical profession. They are an important step towards the modernised approach to regulation promised in the NHS Plan.

While the structures for delivering the GMC's functions need to change, its role will continue to be to protect the public by maintaining a register of doctors who are competent and fit to practise medicine. In the mid-1990s the GMC published *Good Medical Practice*, which codifies what the public and the medical profession agree is expected of every doctor and is the basis for the curriculum in our medical schools. In 1997 new procedures were introduced to deal with serious concerns about doctors' performance. Now, with its proposals for revalidation, all doctors will demonstrate regularly that they are up-to-date and fit to practise.

Not all changes to the GMC require amendment of the Medical Act. The GMC is exploring the best way to strengthen its education function, to make sure that all stages of medical education produce doctors who are able to carry out the duties and responsibilities required for registration. This will require the cementing of partnerships with the bodies involved in medical education and training.

The changes being made by the draft Order are neither the beginning nor the end of GMC reform. But they represent a very significant step forward which has only been achieved by the willingness of the GMC and the medical profession to work closely with the Government, the NHS and patient and public interests. Only in this way can we deliver what the Kennedy Report called for – a system which “needs the widest involvement of professionals, of the principal employer and of the public ... An effective system of professional regulation must be owned collectively. Further, it needs an independence from the professions and from government which allows it to act in the public interest.”

The aim of reform for all the regulatory bodies of the healthcare professions is that they should be streamlined, with much greater patient and public involvement. Procedures will become faster and more transparent. The regulatory bodies will remain accountable to Parliament and will continue to work closely with each other coordinated by the Council for the Regulation of Healthcare Professionals and with the NHS. The steps we are taking now to reform the GMC will achieve these goals and strengthen public confidence in professionally-led regulation.

JOHN HUTTON
Minister of State for Health

GRAEME CATTO
President of the GMC

The case for change

Introduction

1. The reform of professional regulation underpins the development of a modern, patient-centred NHS, by setting standards of competence and ethical behaviour, which together with effective employer checks and support for staff development will help rebuild patients' confidence that the staff who treat them are fully qualified and trained in the most up to date practice.
2. The reforms proposed for the General Medical Council (GMC) have been developed by the council in cooperation with the Government and in consultation with representatives of the public and the medical profession.
3. A modernised system of professional regulation will work alongside the NHS' own clinical governance and patient safety arrangements throughout the United Kingdom to improve protection of patients. The steps we are taking now will achieve these goals and strengthen public confidence in professional regulation.
4. Patients and public alike need to be sure that the healthcare regulatory bodies will set standards which, when appropriate, are applicable across the professions and which support modern approaches to skill mix and inter-professional team working. It is therefore important that we adopt a broadly similar approach to the regulation of health care professionals. Where there are differences, they must be justifiable.

"I am pleased that the Government has accepted our proposals for reform. We have worked hard to get to this point and consulted widely to ensure that this is the right package. I am delighted that we are now working together to deliver the changes that will ensure the GMC continues to function effectively for both patients and doctors"

Sir Graeme Catto, President, GMC

Overall Strategy

5. The underlying principle guiding the modernisation of the regulation of health care professionals is a simple one: patients are the most important people in healthcare. Ensuring that professionals are up to date and fit to practise should therefore be at the heart of modern regulation. It is the role of the medical Royal Colleges and the General Medical Council in partnership with employers and practices to make this a reality reflected in the everyday actions of individual practitioners.
6. Responsibility for how the continued registration of the doctors concerned is handled falls squarely on the GMC's shoulders. This is why we consider that the GMC, along with the other healthcare profession regulatory bodies, needs to become more accountable, open and transparent; responsive to the increasing pace of change of service delivery in the health service, with consistency of approach and greater integration and co-ordination between the regulatory bodies. We seek to develop a system that puts patients' interests first, rebuilds their trust in the profession and offers a more effective service to patients and doctors. This is a view shared by the GMC itself.

7. Self-regulation of the health professions has been a cornerstone of the NHS since its inception. Reports on adverse events in recent years such as the Bristol Inquiry have served to highlight the need for effective regulatory systems. Some people have called for the abolition of the system of professional self-regulation. In the Government's view this would be the wrong response to the problem. The Government remains committed to professionally led regulation for the health care professions: but a reformed system strengthened through modernisation of its practices and reform of its statutory basis.
8. The principles of professional self-regulation were set out by the Chief Medical Officer in *Supporting Doctors, Protecting Patients* published by the Department of Health in November 1999. These principles include clarity of standards, maintaining public confidence, transparency in tackling fitness to practise, and responsiveness to and protection of patients' interests. Other changes in society and the law, such as the introduction of the Human Rights Act, have increased the pressure for change. The role of the Department of Health is to set the statutory basis for professional regulation and the attached draft Order, amending the Medical Act 1983, is the result of over eighteen months intensive work with the GMC to mould proposals to achieve these objectives.
9. Changes to the structure of the GMC will slim down the council and allow it to respond quickly and effectively to change.
10. Professional regulation is about the systems applied to ensure the competence of individual clinicians. This includes education, registration, training, and continuing professional development and revalidation. It is about entry into the profession, as well as determining whether doubts about a health professional's fitness to practise are so serious as to call into question whether or not he or she should be allowed to continue in practice. The draft Order tackles these by reforming fitness to practise procedures; some interim changes to registration; and, introducing revalidation for all doctors.

"The purpose of the system of regulation must be to assure the public of the competence of healthcare professionals and, when necessary, to protect them. As such it needs the widest involvement of professionals, of the principal employer and of the public. It cannot achieve its purpose if it is a system which is designed and operated solely by particular professionals for their professional peers. Nor can it achieve its purpose if it is solely a matter for employers within the NHS. An effective system of professional regulation must be owned collectively. Further, it needs an independence from the professions and from government which allows it to act in the public interest."

Report of the Public Inquiry into children's heart surgery at the Bristol Royal Infirmary 1984–1995.

11. In the National Workforce Taskforce and Department of Health's consultation paper *Hr in the NHS Plan*¹ we have made it clear that the regulation of health care professionals needs to be flexible to facilitate new job design. The redesign of jobs around the needs of patients, working across traditional professional divides, giving staff more responsibility and knowledge, focussing roles and tasks on what patients actually need in terms of their clinical care raise serious questions about the effectiveness and relevance of the present uni-professional structure of self-regulation. The challenge for the GMC and other regulatory bodies is to ensure that the total system allows for the flexibility needed for the provision of a modern health service provided jointly by the state and private sectors without compromising the high professional standards we expect from people entrusted with the care and treatment of patients. To help ensure that this collaboration takes place, we will, subject to Parliamentary approval, set up a Council for the Regulation of Healthcare Professionals.

¹ A copy is available on the Department of Health website: www.doh.gov.uk/hrinthenhsplan. April 2002

Benefits to patients of modernising professional self-regulation

12. Patients deserve treatment by fully qualified and competent health professionals. By modernising and extending the regulatory framework, patients can be reassured that the staff who are treating them are not only fully qualified, but are proficient in the most up to date practices. Such practices include the ability to enhance multi-professional teamwork to deliver the patient's whole care package.
13. The Government wants to ensure that the lay voice is heard in all aspects of the regulatory bodies' work for all the professions. In some bodies, such as the Council for the Regulation of Healthcare Professionals, members of the public could account for more than half of the council membership – for the GMC we propose that this is 40%. The process for appointing lay members of these councils will follow Nolan principles. New arrangements for accountability and public scrutiny will provide for greater transparency. Once established, the new Council for the Regulation of Healthcare Professionals (CRHP), first announced in the NHS Plan, will underpin and drive forward this modernisation process across all the regulatory bodies.
14. NHS staff now work in a framework of clinical governance which is designed to drive up quality standards. In addition, the National Patient Safety Agency (NPSA) is working to implement changes in practices that will protect patients and support staff by minimising the possibilities for human error. It will establish a new national reporting system which will record, analyse and learn from adverse incidents involving NHS patients and ensure that lessons learnt in one part of the NHS are properly shared within the whole health service. A key task for the NPSA is to encourage a culture within the NHS, where doctors, nurses, patients and everyone else involved in the delivery of safe healthcare routinely report and discuss incidents.

Benefits to the NHS

15. The GMC has been in the lead in developing health and performance procedures for doctors and these are being introduced for the other healthcare professions. There have also been separate NHS disciplinary procedures for hospital doctors and better access to continuing professional development. The proposed modernisation of the regulatory framework and employment arrangements encourages an end to such divisions as we strive towards a common ethos of multi-professional team working. The establishment of a Council for the Regulation of Healthcare Professionals, as an over-arching regulatory body, will work to ensure that all professionals are regulated in a comparable way.
16. In England, the National Clinical Assessment Authority (NCAA) is now in place and working to support doctors and in future will cover hospital dentists and NHS doctors in Northern Ireland and Wales. Trusts can seek the advice of the NCAA where a doctor appears to be failing. In some cases, a doctor may be under-performing due to problems with the organisational structure. In other cases, the NCAA may work with the doctor to identify particular training and development needs. It will complement and support the work of employers and the GMC in addressing the professional performance of individual practitioners. This is a novel approach to handling poor performance and we hope that the lessons being learnt in this development can be reproduced for other staff groups. The NCAA's role is to help a doctor and an employer resolve a problem of apparent poor performance at an early stage before it becomes serious, whereas the GMC's role is to take a decision on cases where the position has become so severe that the doctor's continuing registration is called into question.

17. Professional regulation cannot remain above and apart from service modernisation. It should facilitate the development of new roles by providing a framework within which existing NHS professional roles may be safely redesigned to offer improved patient services. A consistent approach to regulation across all health care professions will help encourage effective team working by breaking down barriers between professional groupings.

Roles and Responsibilities in making this happen

18. The GMC, NHS, Government, other regulatory bodies and consumer groups have worked co-operatively to take forward the reform of regulation and we look forward to this continuing. The Department will set the strategic framework for modernising regulation by bringing the law up to date to meet the needs of the modern health service. It will then be for the regulatory bodies to ensure that the arrangements for recognising professional qualifications and the registering of professionals support development of flexible careers and developments in the staffing of changing services. The regulators welcome reform and they have already started modernisation. The increased lay membership on regulatory bodies, including people representing the interests of patients and employers will have a key role in ensuring reforms are carried through.

What is being looked for in GMC reform?

Objectives of reform

19. There are several strands to the reform of the GMC, each progressing to different time scales. The Order makes the changes in the Medical Act necessary for reforms in three key areas, but the need for other changes to be in place means that each strand will have a different start time. The Order will cover:

- Constitution and governance- the organisation of the GMC and its accountability;
- Fitness to practise – handling concerns about conduct, performance or ill health;
- Revalidation, the licence to practise and registration.

The making of the Order will put the GMC on the starting blocks for implementing change. Governance arrangements will be in place during 2003 and will set the structure for other changes. The fitness to practise changes will follow once the new committee structure is in place and new rules have been made. The first revalidation of doctors will start by 2005, though guidance for doctors on how they can demonstrate their fitness to practise will be issued in early 2003. A review of registration already started will focus on a common approach to registration for all doctors whether they have trained in the UK or abroad.

20. In future in order to better meet the needs of patients and professionals a new GMC should :

- Be smaller and more strategic;
- give priority to patient interests;
- have clear and effective mechanisms for accountability;
- be responsive to change and to health service needs;
- adhere to the criteria for a modern regulatory body set out in *Supporting Doctors, Protecting Patients*;
- be positioned for quick intervention when public protection is needed.

We believe that the proposals that the GMC has worked up in consultation with the medical profession and consumer organisations will put the GMC in a better position to meet these expectations.

The GMC's proposals for Fitness to Practise reform

21. The package of reform includes:

- a radical overhaul of the initial stages of case-handling to make them quick, effective and fair;
- improved arrangements for handling fitness to practise cases through a unified process, in place of the current three separate procedures;
- confining the formal conduct hearings for serious allegations which call the doctor's registration into question;
- a new procedure for dealing with cases which are not deemed to be so serious as to call the doctor's registration into question, but might deserve a lesser sanction, such as a formal warning (after consideration of the evidence using the civil standard of proof).

22. For patients and the public this will mean:

- simpler proceedings and rules;
- speedier processes;
- meaningful involvement of those who bring cases to the GMC's attention;
- keeping interested parties informed of progress;

Future reform of registration

23. In the summer, the GMC will start to explore what changes are needed to the law and its procedures so that the registration of doctors is:

- Simpler
- Quicker
- Fair
- Flexible

while maintaining the existing high standards required to practise as a doctor in the UK.

24. In the meantime we are making interim changes to section 19 of the Medical Act 1983 to handle the registration of graduates trained in one of 23 mostly Commonwealth medical schools in the same way as other international doctors. This provision, which gave them the right to full registration, is no longer appropriate and cannot be justified by differences in the quality of education at different medical schools. With the GMC we considered an alternative approach, of adding to the list of recognised overseas qualifications, but we recognise that there would be a danger of continuing inequity.

25. At the same time we are introducing a direct route to full registration for international doctors with a specialist qualification or certificates of equivalent experience in general practice whilst maintaining the safeguarding of standards currently provided by the Specialist Training Authority or JCPTGP and in future the new Postgraduate Medical Education and Training Board. The draft Order also proposes allowing doctors with limited registration to train in general practice as GP registrars.
26. At some stage it will be necessary to make further changes to the way registration operates. For instance, the current system does not allow a doctor who is refused registration all the rights of appeal to an independent body which would be expected nowadays. In particular, the processes involving the Review Board for Overseas Qualified Practitioners do not conform to modern expectations in this area. It will be necessary to abolish the Review Board and ensure that GMC decisions on registration can be reviewed by Registration Appeal Panels, with an appeal from their decisions to a court. We would welcome views on whether we should use the opportunity, created by the establishment in the draft Order of Registration Appeals Panels in connection with revalidation, to bring greater coherence to the arrangements for registration appeals generally.

Introduction of revalidation

27. In recent years there have been some key changes affecting medical practice. It has become more complex, more reliant on technological advances and the wide range of effective medicines now available. At the same time, patients, government and the media have raised the expectations on medicine and demanded clear standards, greater accountability and openness. The GMC has responded to these pressures in the 1990s by introducing *Good Medical Practice*, new performance procedures and now its proposals for revalidation. Revalidation will be a demonstration that a doctor remains up to date and remains fit to practise.
28. The Government is introducing appraisal systems for all doctors working in the NHS which are designed to support the GMC's revalidation arrangements. All NHS doctors will be discussing their practice with their employer or a recognised NHS appraiser on an annual basis. Part of this appraisal process is a review of the evidence used to support the principles set out in *Good Medical Practice*.
29. Doctors who do not wish to revalidate will not hold a licence to practise and will not be able to prescribe drugs or have the rights and privileges currently provided by registration. Further details about the GMC's proposals on revalidation are available at www.revalidationuk.info a joint GMC and Department of Health website.

The New GMC

A picture of the future

30. We expect the New GMC to come into being over the next 18 months. Some of the changes are made in the professional regulation Order, but others will be made in rules and regulations to be made by the GMC and approved by the Privy Council.
31. The New GMC will be a small strategic organisation with a membership of no more than 35. There will be a majority of medical members (including two appointed by the medical schools and medical Royal Colleges). As now the electoral scheme will ensure that there are elected members from England, Scotland, Wales and Northern Ireland. The lay members, about 40% of the Council, will have an influential role in determining policy and other matters.
32. Members of the new Council will not play the same role in determining fitness to practise cases as their predecessors. Indeed cases will be heard by panels made up of non members who will include doctors as well as lay people.
33. The new Council will meet frequently to enable the New GMC to respond rapidly to change and be a more effective forum for carrying forward business. It will remain accountable to Parliament. The New GMC, like the other health regulatory bodies, will come within the remit of the Council for the Regulation of Healthcare Professionals subject to Parliamentary approval.
34. The keeping of the medical register will remain at the heart of the functions of the New GMC. However, the annual printed version of the register now serves little purpose, given developments in communication technology, including electronic publishing, which enable anyone seeking information about doctors' registration status access to up-to-date data. An important change will be the introduction of a licence to practise- only doctors with a licence will be able to treat patients and prescribe drugs. The licence may be withdrawn if doctors fail to maintain their fitness to practise or do not demonstrate through the GMC's revalidation procedures that they are up-to-date and fit to practise.
35. The principles of *Good Medical Practice* will be embedded in all the New GMC's work, they will influence the undergraduate studies of aspiring doctors and stay with them during their working lives. Doctors' compliance with these principles will be periodically checked through revalidation. When there are concerns about a doctor's conduct, performance or health, the principles set out in *Good Medical Practice* will inform the consideration of their fitness to practise.
36. Increasingly, concerns about a doctor's conduct, performance or health will be dealt with at a local level by the hospital, health authority or primary care trust. The New GMC will concentrate on the most serious cases and those where local action is insufficient to protect the public. Panels considering cases will have a number of options when determining cases other than removal from the register. Procedures will be simpler and swifter than now whilst remaining fair to doctors. Their over-riding concern will be the protection of the public.

37. In the Order, we are addressing certain problems with the law concerning the regulation of doctors, but we have agreed that the New GMC needs a fundamental review of registration law and its arrangements for registering doctors. The GMC has started this process and its General Council is due to consider proposals in November 2002.

Consultation and next steps

The process for consultation and making of the Order

38. The GMC has consulted extensively on the proposals for reform which it has put to the Government. The Government's response is contained in this consultation document and in the draft order. These are published for consultation in compliance with paragraph 9 of schedule 3 of the Health Act 1999. Following consultation, the Secretary of State may wish to make amendments to the draft Order before it is laid before Parliament with a report on the consultation. The Order is subject to the affirmative procedures under which it must be the subject of debates in both Houses. Subject to the approval of both Houses, the Order will be presented to Her Majesty in Council for the Order to be made.
39. Individuals and organisations are therefore invited to submit comments to the Department of Health on any of the issues dealt with in the draft Order. Although the Secretary of State for Health is acting on a UK-wide basis, you may wish to copy comments to the devolved administrations which have been asked to provide advice and comments to the Secretary of State to the same time scale.
40. Your comments are requested by 6th September 2002, and should be addressed to:

GMC Reform consultation
Department of Health
Room 2N35A
Quarry House
Quarry Hill
Leeds LS2 7UE
Tel: 0113 254 6209
Fax: 0113 254 5795
e-mail: gmcorder@doh.gsi.gov.uk

Attachments to e-mails should be in Microsoft Word or rich text format only please.

41. Please indicate whether you are replying as an individual or on behalf of an organisation or group of people. Your response may be made public, but, if you would prefer it to remain private, please make this clear when replying.
42. The proposed legislation will extend to the whole of the UK. If you wish to copy your response to the devolved administrations their addresses are:

Scotland

Anncris Roberts
Scottish Executive Health Department
St. Andrews House
Regent Road
Edinburgh EH1 3DG
Tel: 0131 244 3436
Fax: 0131 244 2837
Email: anncris.roberts@scotland.gsi.gov.uk

Wales

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National Assembly for Wales
4089 CP2
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BT4 3PP
Tel: 02890 520563
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This document is available on the Department of Health website: www.doh.gov.uk/gmcreform.htm

Commentary on the draft Order

The Order contains 13 articles and has been prepared in seven parts and two schedules as follows:

I.	General	page A1
II.	Constitution of the Council	page A2
III.	Committees of the Council	page A3
IV.	Registration	page A4
V.	Revalidation and licence to practise	page A8
VI.	Professional conduct and fitness to practise	page A14
VII.	Miscellaneous Schedules	page A31 page A33

I. General

Articles 1 and 2 provide for how the Order should be referred to and how it is to come into force. It provides for the Medical Act 1983 (“the Act”) to be amended in the way described in the remainder of the Order.

Constitution of the Council

Article 3 of the Order makes detailed amendments to Schedule 1 of the Act. It provides for:

- limitation of the size of the GMC to 35 members; [article 3(a)]
- changes to be made to the constituencies for the election of medical members. At present the English constituency cannot be split; [article 3(b)]
- limiting those eligible to elect medical members to doctors holding a licence to practise (including those with limited registration); [article 3(b)]
- prescribed information on candidates to be given to the electorate (eg any adverse fitness to practise findings); [article 3(b)]
- medical members to hold a licence to practise; [article 3(b) & (c)]
- removal from office of members. [article 3(d)]

Some important changes are not covered in this Order but will be provided for in other ways eg by the Constitution Order, rules and the Electoral Scheme which will require “Privy Council approval”²:

- Medical/lay balance;
- Nomination of lay members;
- Electoral scheme.

II. Committees of the Council

Article 4 provides for the existing statutory committees (apart from the Education Committee) to be abolished and replaced by registration panels and, for fitness to practise, by the Investigation Committee, interim order panels and fitness to practise panels. In order to separate policy making from decisions on cases, the membership of the panels (except Registration Decisions Panels) will be drawn from persons who are not members of the GMC. There will no longer be a requirement for the Education Committee to have a majority of appointed members (there will only be two in future).

III. Registration

Article 5 makes changes to parts of Part III of the Medical Act. It

- replaces section 19 to remove the right of some overseas graduates holding one of 23 recognised overseas primary medical qualifications to apply directly for full registration; [article 5(a)]
- creates a direct route to full registration for overseas doctors with a specialist or general practice qualification (by inserting a new section 21A); [article 5(d)]
- liberalises the rules on where doctors with Limited Registration may work, to allow them to be GP Registrars and work in the Channel Islands; [article 5(e)]
- abolishes the overseas list in the medical register; [article 5(k)]
- clarifies the GMC’s freedom to publish the register on the internet in any appropriate format; [article 5(m)]
- abolishes the requirement to print the Medical Register; [article 5(m)]
- updates and clarifies the provisions for proof of registration. [article 5(n)]

Article 6 makes some consequential amendments to the Act.

² Order in Council made by Her Majesty under section 1(2). The electoral scheme is made with the approval of the Privy Council under paragraph 2(2) of schedule 1 of the Act.

IV. Revalidation and licence to practise

Article 7 introduces a new Part IIIA into the Act. This includes a new section 29A which introduces the concept of revalidation and the licence to practise. The section gives the GMC powers to make regulations introducing revalidation and the licence to practise.

A new section 29B deals with arrangements for restoration of the licence to practise following withdrawal of the licence or erasure from the register. These reflect current practice for restoration to the register.

A new section 29C enables the GMC to make regulations allowing it to refuse to grant, withdraw or refuse to restore a licence to practise where information required for revalidation or licensing is not provided.

Article 8 makes supplementary changes as a consequence to the introduction of revalidation and the licence to practise by inserting a new schedule (Schedule 3A) into the Act. It provides, amongst other things for:

- appeals to a Registration Appeals Panel against decisions to withdraw a licence to practise; [para 1]
- a power to make rules or procedure for Registration Appeals Panels (with approval by the Privy Council); [para 2]
- a requirement to consult the Council for the Regulation of Healthcare Professionals in addition to bodies representing medical practitioners before making rules; [para 2(3)]
- a practitioner to be referred by a Registration Appeals Panel to the fitness to practise Investigation Committee if it thinks fit. [para 4]

Article 9 sets out some supplementary changes including that pretending to hold a licence to practise will be a criminal offence. The consequential amendments contained in Schedule I to the Order relate primarily to the licence to practise. In particular, the amendment to the Interpretation Act will ensure (except as otherwise mentioned in the Schedule) that the legal rights and obligations currently attaching to a fully registered medical practitioner will transfer to a fully registered medical practitioner who holds a licence to practise.

V. Professional conduct and fitness to practise

Article 10 provides for the complete replacement of Part V of the Act. Where completely new provisions are made newly numbered sections (eg section 35C) are created otherwise section numbering remains unchanged. Article 11 replaces Schedule 4 of the Act.

The key changes in article 10 are:

- introducing a single concept of “impaired fitness to practise” (by reason of misconduct, deficient professional performance, a conviction, the doctor’s health or a determination of another regulatory body that the practitioner’s fitness to practise is impaired) to replace the separate charges “serious professional misconduct”, “conviction”, “serious deficiency of performance” and “serious impairment of fitness to practise by reason of health”; [section 35C(1)]
- allowing a panel to act on the determination of another regulatory body either in this country or abroad regarding a doctor’s fitness to practise; [section 35C(1)(e), & (12)]

- introducing a streamlined preliminary process before consideration by a panel, based on referral of cases to the Investigations Committee, which will have powers to delegate; [section 35C(3) to (10)]
- introducing a power for the Investigation Committee to issue a warning in cases not meeting the criteria for referral to a fitness to practise panel; [new section 35C(5)]
- introducing the power for a panel investigating a conduct case to issue a formal reprimand; [s.35D(3)(d)]
- introducing a power to erase in professional performance cases; [section 35D(3)(a)]
- introducing a power to erase following conditional registration; [section 35D(4)(a)]
- introducing a power to impose immediate conditional registration; [section 38(2)]
- extending the types of disqualifying decision in relation to EEA nationals to cover disqualifying decisions based on ill-health or performance grounds; [section 44(2)(a)]
- allowing any panel to make an interim order to protect the public; [section 41A]
- linking decisions on a doctor's registration to the withdrawal of the licence to practise; [section 41C]
- making further provision for the GMC and the fitness to practise panels to take account of disqualification or convictions in this country or abroad; [section 44A]
- requiring the GMC to consult the Council for the Regulation of Healthcare Professionals (in addition to the medical profession) before making rules relating to fitness to practise procedures. [schedule 4, para 1(6)]

VI. Miscellaneous

Article 12 introduces a new section which requires the GMC to publish an annual report and that this is laid before Parliament. [article 12(3)] Article 13 also provides for consequential amendments and transitional provisions to be made. Article 13 provides an order making power for the Secretary of State to make further consequential, transitional or saving provision for the purposes of giving full effect to this Order. The order will be subject to the negative resolution procedure. The order will be used to make transitional and saving provisions in relation to fitness to practise.

Draft Order in Council to be laid before Parliament under section 62(9) of the Health Act 1999, for approval by resolution of each House of Parliament.

STATUTORY INSTRUMENTS

DRAFT

**MEDICAL HEALTH CARE AND ASSOCIATED
PROFESSIONS**

The Medical Act 1983 (Amendment) Order 2002

Made - - - - 2002

Coming into force - - 2002

Articles 1 and 13(3) to (5)
Remainder in accordance with article 1(2)

At the Court at Buckingham Palace, the ** day of ** 2002

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order in Council has been approved by resolution of each House of Parliament in accordance with section 62(9) of the Health Act 1999(a).

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by section 60 of the Health Act 1999 and all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Medical Act 1983 (Amendment) Order 2002.

(2) This Article and Article 13(3) to (5) come into force on the day on which this Order is made and the other provisions of this Order shall come into force on such days the Secretary of State may specify.

(3) Different days may be specified under paragraph (2) for different purposes and any day so specified shall be caused to be notified in the London, Edinburgh and Belfast Gazettes published not later than one week before that date.

(4) In this Order, “the Act” means the Medical Act 1983(b).

(a) 1999 c.8. An earlier draft of this Order was published for consultation in accordance with paragraph 9(1) of Schedule 3 to the Health Act 1999.

(b) 1983 c.54, as amended by the Medical (Professional Performance) Act 1995 (c.51), the Medical Act 1983 (Amendment) Order 2000 (S.I. 2000/1803) and the National Health Service Reform and Health Care Professions Act 2002 (c.).

Amendment of the Act

2. The Act shall be amended in accordance with articles 3 to 12 of this Order.

PART II

CONSTITUTION OF THE COUNCIL

Amendment of Schedule 1

3. In Schedule 1 (the General Medical Council and its Committees, and the branch Councils)—
 - (a) in paragraph 1 after sub-paragraph (2) add—

“(3) The General Council shall consist of no more than 35 members.”;
 - (b) in paragraph 2—
 - (i) at the beginning of sub-paragraph (1) insert “Subject to sub-paragraph (1A) below”;
 - (ii) after sub-paragraph (1) add—

“(1A) Alternatively, an electoral scheme may provide for any of the constituencies listed in sub-paragraph (1)(a) to (d) above to be divided into two or more separate constituencies.”;
 - (iii) for sub-paragraph (4) substitute—

“(4) The persons qualified to elect the elected member for any constituency shall be those who, on a date specified in accordance with the electoral scheme—

 - (a) are resident in the constituency for which the election is held;
 - (b) are fully registered, provisionally registered or registered with limited registration; and
 - (c) are holders of licences to practise.”;
 - (iv) for sub-paragraph (5) substitute—

“(5) A person shall not be qualified to be elected as an elected member unless he is fully registered, provisionally registered or registered with limited registration and in each case holds a licence to practise.”; and
 - (v) after sub-paragraph (6) add—

“(7) An electoral scheme shall make provision for the disclosure to those qualified to vote at an election information (including information concerning fitness to practise) relating to a person seeking election.”;
 - (c) in paragraph 3 for sub-paragraphs (1) and (2) substitute—
 - (1) Appointed members shall be chosen by such bodies as are designated for the time being as appointing bodies by an Order in Council under section 1 of this Act.
 - (2) A person shall not be qualified to be chosen as an appointed member unless he is fully registered or registered with limited registration, and holds a licence to practise.”;
 - (d) in paragraph 4 for sub-paragraph (3) substitute—

“(3) A nominated member shall be a person who is neither fully registered nor a holder of any qualification registrable under this Act”;
 - (e) after paragraph 4 add—

“Removal from office or suspension of members

4A.—(1) The General Council shall by rules make provision for the removal from office or suspension of a member by the General Council in such circumstances as may be specified in the Rules.

(2) Rules under sub-paragraph (1) shall provide for an elected member or an appointed member to be removed from office if he ceases to be registered or to hold a licence to practise.

- (3) Standing orders of the General Council shall make provision for the procedure by which a member may be removed from office or suspended.
- (4) No rules under sub-paragraph (1) above shall come into force until approved by order of the Privy Council; and
- (f) for paragraph 13 substitute—
- “13. The quorum of the General Council shall be prescribed by Her Majesty by Order in Council made under section 1(2) of this Act.”

PART III

COMMITTEES OF THE COUNCIL

Committees

4.—(1) The Interim Orders Committee, Preliminary Proceedings Committee, the Professional Conduct Committee, the Assessment Referral Committee, the Committee on Professional Performance and the Health Committee are abolished.

(2) Accordingly—

- (a) in section 1 (the General Medical Council) for subsection (3) substitute—

“(3) The General Council shall have the following Committees—

- (a) the Education Committee,
- (b) one or more Interim Orders Panels,
- (c) one or more Registration Decisions Panels,
- (d) one or more Registration Appeals Panels,
- (e) the Investigation Committee,
- (f) one or more Fitness to Practise Panels,

constituted in accordance with Part III of Schedule 1 to this Act and having the functions assigned to them by or under this Act.”

- (b) for paragraphs 19 to 24 of Schedule 1 substitute—

Education Committee

19. Subject to the power of the Committee under paragraph 25 to co-opt members, the composition of the Education Committee shall be such as the General Council think fit.

Interim Orders Panels

19A. Subject to the restrictions on membership specified in paragraph 23 and to the power of the Panel under paragraph 25 to co-opt members, an Interim Orders Panel shall be constituted as provided by rules made under this paragraph by the General Council.

Registration Decisions Panels

19B. Subject to the powers of the Panel under paragraph 25 to co-opt members, a Registration Decision Panel shall be constituted as provided by rules made under this paragraph by the General Council.

Registration Appeals Panels

19C. Subject to the restrictions on membership specified in paragraph 23 and to the power of the Panel under paragraph 25 to co-opt members, a Registration Appeals Panel shall be constituted as provided by rules made under this paragraph by the General Council.

The Investigation Committee

19D. Subject to the power of the Committee under paragraph 25 to co-opt members, the composition of the Investigation Committee shall be such as the General Council think fit.

Fitness to Practise Panels

19E. Subject to the restrictions on membership specified in paragraph 23 and to the power of the Panel under paragraph 25 to co-opt, a Fitness to Practise Panel shall be constituted as provided by rules made under this paragraph by the General Council.

23. Rules under paragraphs 19A, 19C and 19E above shall secure that—

- (a) only persons who are not members of the Council shall be members of an Interim Orders Panel, a Registration Appeals Panel or a Fitness to Practise Panel;
- (b) a person who sits as a member of an Interim Orders Panel or of a Fitness Practise Panel that has made an interim order shall not sit as a member of a Fitness to Practise Panel in any subsequent proceedings in that case;
- (c) a person who is a member of the Investigation Committee or a Registration Decisions Panel may not at the same time be a member of an Interim Orders Panel, a Registration Appeals Panel or a Fitness to Practise Panel;

23B. Without prejudice to paragraph 25, rules under paragraph 19A, 19B, 19C, 19D or 19E above may determine the quorum of any of those committees.

24. Rules under paragraph 19A, 19B, 19C, 19D or 19E above shall not come into force until approved by order of the Privy Council.”

(3) In paragraph 25—

(a) after sub-paragraph (2) add—

“(2A) Some or all of the members of committees of the Council mentioned in this Part may be persons who are not members of the Council.”; and

(b) at the beginning of sub-paragraph (4) insert—

“Except where rules made under paragraph 19A, 19B, 19C, 19D or 19E above have made provision about the quorum,”

PART IV

REGISTRATION

Registration

5. In Part III (Registration of persons qualifying overseas) and Part IV (general provisions concerning registration)—

- (a) for section 19 (full registration of persons by virtue of recognised overseas qualifications) substitute—

“Full registration of EEA nationals and others with an enforceable Community right by virtue of an overseas primary qualification or overseas experience

19.—(1) Where a person to whom this section applies satisfies the Registrar—

- (a) that he holds one or more overseas primary qualifications other than a primary European qualification;
- (b) that he has acquired experience in the practice of medicine, whether in the course of employment in the United Kingdom or in the course of employment outside the United Kingdom, which is not less extensive than that required for a certificate under section 10 above; and
- (c) that he is of good character,

that person shall, if the General Council think fit so to direct, be registered under this section as a fully registered practitioner.

(2) This section applies to any person who—

- (a) is a national of an EEA State other than the United Kingdom;
- (b) is a national of the United Kingdom who is exercising an enforceable Community right; or
- (c) is not a national of an EEA State, but is, by virtue of a right conferred by article 11 of Regulation EEC No. 1612/68, or any other enforceable Community right, entitled to be treated, for the purposes of access to the medical profession, no less favourably than a national of such a State.

(3) In determining the application, the General Council shall take into account—

- (a) if he holds a qualification granted outside the EEA which has been accepted by another EEA State as qualifying him to practise as a medical practitioner in that State, the acceptance of the qualification;
- (b) all relevant medical qualifications, knowledge or experience wherever acquired.

(4) Subsections (4) and (5) of section 10 above shall apply to a person prevented from embarking on, or completing, a period of experience required for the purposes of this section as it applies to a person prevented from embarking on, or completing, a period of experience required for the purposes of that section.”

(b) omit section 20 (experience required for full registration by virtue of a recognised overseas qualification).

(c) in section 21 (provisional registration)—

(i) in subsection (1) for “section 20(2)(a)” substitute “section 19(1)(b)”;

(ii) in subsection (2) omit “, (b)”;

(iii) for subsection (2A) substitute—

“(2A) Subsection (3) of section 19 above applies for the purposes of this section as it applies for the purposes of that section.”;

(d) after section 21 add—

“Full registration for eligible specialists and qualified general practitioners

21A.—(1) Where a person satisfies the registrar—

- (a) that he holds an acceptable overseas qualification;
- (b) that he is an eligible specialist or a qualified general practitioner;
- (c) that he is of good character; and
- (d) that he has the necessary knowledge of English or is an exempt person,

that person shall, if the General Council think fit so to direct, be registered under this section as a fully registered medical practitioner.

(2) In subsection (1) above—

“eligible specialist” means a person—

(a) who—

- (i) has a specialist medical qualifications awarded outside the United Kingdom in a medical specialty in which the United Kingdom awards a CCST, and
- (ii) has satisfied the competent authority that those qualifications are equivalent to a CCST; or

(b) who—

- (i) has specialist medical qualifications awarded outside the United Kingdom in a specialty in which the United Kingdom does not award a CCST; or
- (ii) has knowledge of or experience in any medical specialty derived from academic or research work,

and has satisfied the competent authority that these give him a level of knowledge and skill consistent with practice as a consultant in that specialty in the National Health Service; and

“qualified general practitioner” means a person who has been awarded by the Joint Committee on Post Graduate Training for General Practice a Certificate of Equivalent Experience.

(3) In this section—

“CCST” means a Certificate of Completion of Specialist Training,

“competent authority” means the competent authority for the purpose of article 9(2) and (3) of the European Specialist Medical Qualifications Order 1995(a); and

“exempt person” means a person who falls within section 19(2) above.”;

(e) in section 22 (limited registration of persons by virtue of overseas qualifications)—

(i) for subsection (1)(a) substitute—

“(a) that he has been selected for employment of a description approved by the General Council for the purposes of this section in the British Islands;”

(ii) in subsection (1)(c) for “section 19” substitute “section 21A(3) above”; and

(iii) for subsection (1A) substitute—

“(1A) Subsection (3) of section 19 above applies for the purpose of this section as it applies for the purposes of that section but with the following modification—

(a) in subsection (3)(a), the insertion after the word “holds) of the words “; has held or has passed the examination necessary for obtaining”.”;

(f) in section 24(3)(a) (limited registration: erasure) omit “a particular employment or”;

(g) in section 25 (full registration of persons with limited registration) omit “under section 19 above”;

(h) in section 26 (registration of qualifications)—

(i) in subsection (1)—

(aa) for “recognised overseas qualification or qualifications” to “so registered” substitute “overseas qualification or qualifications which he holds and by virtue of which he is registered”;

(bb) omit paragraph (a); and

(cc) in paragraph (b) omit “(other than a recognised overseas qualification)”;

(ii) in subsection (2) omit “section 19 above by virtue of”; and

(iii) in subsection (3) for “(b) or (c)” substitute “(a) or (b)”;

(i) in section 27(1) (temporary full registration for visiting overseas practitioners)—

(i) in paragraph (a) for “recognised overseas qualifications or” substitute “overseas qualifications”;

(ii) in paragraph (b) omit “and”;

(iii) and after paragraph (c) insert—

“and;

(d) that he is of good character.”;

(j) in section 29 (functions of the Review Board)—

(i) in subsection (2)(c) for “by virtue of section 25” to “section 19 above” substitute “under section 25 above that he be registered”; and

(ii) in subsection (3)—

(aa) in paragraph (a) for “section 20” substitute “section 19(1)(b)”;

(bb) omit paragraph (b); and

(cc) in paragraph (c) omit “(a), (b),”;

(a) S.I. 1995/3208.

- (k) in section 30 (the registers)—
 - (i) in subsection (1)—
 - (aa) for “contain” substitute “include”;
 - (bb) in paragraph (a) for “section 19 or 21” to the end of that paragraph substitute “section 19, 21, 21A or 25 above;”; and
 - (cc) omit paragraph (b); and
 - (ii) in subsections (2) and (3) for “contain” substitute in both places “include”;
- (l) in section 31 (power to make regulations with respect to the registers)—
 - (i) omit subsections (5) to (7);
 - (ii) in subsection (8) omit “ or of any regulations made in pursuance of subsection (6) above”;
 - (iii) in subsection (9) omit from “but nothing” to the end; and
 - (iv) in subsection (10) omit “(5), (6),”;
- (m) for section 34 (the Medical Register and Overseas Medical Register) substitute—

“The Register

34.—(1) The Registrar shall cause to be published from time to time (electronically or otherwise) a list of all persons appearing in the register on a date specified by the Registrar at the time of publication.

(2) The list published in accordance with subsection (1) shall include in respect of each practitioner information about—

- (a) his registered qualifications;
 - (b) whether he holds a licence to practise; and
 - (c) such other particulars (if any) as the General Council may direct in relation to that list.”;
- (n) after section 34 add—

“Proof of registration

34A.—(1) The Registrar may issue a certificate certifying that a person—

- (a) is not registered;
- (b) was not registered at a specified date or during a specified period;
- (c) was registered at a specified date or during a specified period;
- (d) has never been registered;
- (e) did not hold a licence to practise at a specified date or during a specified period;
- (f) held a licence to practise at a specified date or during a specified period; or
- (g) has never held a licence to practise.

(2) A certificate issued under paragraph (1) shall be evidence (and in Scotland sufficient evidence) of the matters certified.”

Supplementary

- 6.**—(1) In section 2(2) (registration of medical practitioners) —
- (a) for “four lists” substitute “three lists”; and
 - (b) omit paragraph (b).
- (2) In section 16(1)(c) (registration of qualifications) omit “recognised overseas qualification or other”.
- (3) In paragraph 11 of Part II of Schedule 1 (incidental powers and duties and proceedings of the General Medical Council) for “section 19, 21 or 22” substitute “section 21A or 22”.
- (4) In Schedule 3 (registration: supplementary provisions)—
- (a) in paragraph 2—
 - (i) in sub-paragraph (1)(a) for “paragraph (a) of section 3” substitute “section 3(1)(a)”;

- (ii) in sub-paragraphs (1)(b) and (2)(a) for respectively “section 3(b)” and “paragraph (b) of section 3” substitute “section 3(1)(b)” in each place;
- (iii) in sub-paragraph (2) omit sub-paragraph (b); and
- (b) in paragraph 5(2) for “22 or 27” substitute “21A, 22, 25 or 27”.

PART V

REVALIDATION AND LICENCE TO PRACTISE

Insertion of new sections 29A, 29B and 29C

7. After Part III (registration of persons qualifying overseas) add—

“PART IIIA

REVALIDATION AND LICENCE TO PRACTISE

Revalidation and licence to practise

29A.—(1) Subject to the provisions of this Act, the General Council shall make regulations with respect to the revalidation of medical practitioners and licence to practise.

(2) In this section—

“revalidation” means the procedures provided for by regulations made under this section whereby a medical practitioner’s fitness to continue to hold a licence to practise is evaluated; and

“prescribed” means prescribed by regulations under this section.

(3) Regulations under this section shall provide for the grant of a licence to practise to—

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

(4) Regulations under this section shall provide for the withdrawal of a licence to practise—

- (a) where the medical practitioner has failed to comply with requirements of regulations made under this section;
- (b) where the grant of a licence to practise has been fraudulently procured or incorrectly given; and
- (c) in such other cases or circumstances as may be prescribed.

(5) Regulations under this section may provide for—

- (a) the Registrar;
- (b) a Registration Decisions Panel;
- (c) a Registration Appeals Panel; or
- (d) such other person as may be prescribed,

to grant or withdraw a licence to practise.

(6) Regulations under subsection (3) or (4) above shall make provision as to the procedures to be followed before a licence to practise shall be granted or withdrawn.

(7) Regulations under this section shall provide that where in the course of revalidation, it appears to—

- (a) the Registrar,
- (b) the Registration Decisions Panel, or

(c) any other person who is prescribed under subsection (5)(d) above,

that the fitness to practise of the medical practitioner concerned may be impaired, the Registrar, Panel or other person referred to in paragraph (c) above may refer the matter to the Investigation Committee.

(8) Regulations under subsection (3) and (4) may provide for the publication by the General Council of guidelines for medical practitioners about revalidation, including the collection and submission of evidence.

(9) In developing such guidelines the General Council shall take account of any relevant appraisal schemes applying within the health service, the Scottish health service or the Northern Ireland health service.

(10) If—

(a) the Registrar,

(b) the Registration Decisions Panel, or

(c) any other person who is prescribed under subsection (5)(d) above,

refuses to grant a licence to practise or withdraws a licence to practise from a medical practitioner, that practitioner may appeal to the Registration Appeals Panel and Schedule 3A (which provides for procedures to be followed before the Registration Appeals Panel) shall apply in relation to such an appeal.

(11) A medical practitioner in respect of whom a Registration Appeals Panel have made a determination under paragraph 3(b) or (d) of Schedule 3A may, before the end of the period of 28 days beginning with the date on which notification of the determination was served under that paragraph, appeal against the determination to a county court, or in Scotland, the sheriff in whose sheriffdom the address in the register is situated.

(12) A licence to practise shall not be withdrawn from a medical practitioner under regulations made under this section—

(a) until the end of the period during which he may appeal to a Registration Appeals Panel by virtue of subsection (10) above, or

(b) if he does so appeal to a Registration Appeals Panel, until the appeal process (including any appeal to the relevant court, as specified in subsection (11) above) has been exhausted.

(13) If—

(a) the Registrar,

(b) a Registration Decisions Panel, or

(c) any other person who is prescribed under subsection (5)(d) above,

refuses to grant or withdraws a licence to practise to or from a medical practitioner, the Registrar, the Panel or other person referred to in paragraph (c) above shall serve on that practitioner a notice of the decision to refuse to grant a licence to practise or (as the case may be) to withdraw the practitioner's licence to practise, under the regulations and the reasons for it.

(14) Regulations under this section may provide for the making of a charge in respect of the cost of revalidation.

(15) Regulations under this section may make different provision for different cases and circumstances.

(16) Regulations under this section shall not have effect until approved by order of the Privy Council.

(17) Before making regulations under this section the General Council shall consult with the Council for the Regulation of Health Care Professionals and with such bodies of persons representing medical practitioners, or medical practitioners of any description, as appears to the General Council requisite to be consulted.

(18) In subsection (9) "health service", "Scottish health service", and "Northern Ireland health service" means respectively the health service established in pursuance of the National Health Service Act 1946, the National Health Service (Scotland) Act 1947 or any service provided in pursuance of article 4(1) of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I.1972/1265 (NI 14)).

Restoration of licence to practise following withdrawal of a licence to practise or erasure from the register

29B.—(1) Subject to the provisions of this Act, the General Council shall make regulations with respect to the restoration of a licence to practise to a medical practitioner—

- (a) whose licence to practise was withdrawn under regulations made under section 29A above
- (b) whose entry in the register was erased under subsection (5) of section 30 (the registers) below, section 31A (voluntary removal from the register) below or subsection (2) of section 32 (registration fees) below;
- (c) whose licence to practise was withdrawn under section 41C below (effect of directions or orders on a licence to practise); and
- (d) in such other cases or class of cases as may be prescribed.

(2) Regulations under this section may provide for the publication by the General Council of guidelines for medical practitioners about restoration of a licence to practise.

(3) Regulations under this section shall make provision as to the procedure to be followed before a licence to practise can be restored.

(4) Regulations under this section may provide for—

- (a) the Registrar;
- (b) a Registration Decisions Panel;
- (c) a Registration Appeals Panel;
- (d) a Fitness to Practise Panel; or
- (e) such other person as may be prescribed,

to give a direction that a medical practitioner's licence to practise be restored.

(5) If—

- (a) the Registrar,
- (b) a Registration Decisions Panel, or
- (c) any other person who is prescribed under subsection (4)(e) above,

refuse to restore a licence to practise to a medical practitioner, the Registrar, the Panel or other person referred to in paragraph (c) shall serve on that practitioner a notice of the decision and the reasons for it.

(6) If—

- (a) the Registrar,
- (b) a Registration Decisions Panel, or
- (c) any other person who is prescribed under subsection (4)(e) above,

refuse to restore a licence to practise, the medical practitioner may appeal to a Registration Appeals Panel under this subsection and Schedule 3A (which provides for the procedures to be followed before a Registration Appeals Panel) shall apply in relation to such an appeal.

(7) A medical practitioner in respect of whom a Registration Appeals Panel have made a determination under paragraph 3(f) of Schedule 3A may, before the end of the period of 28 days beginning with the date on which notification of the determination was served under that paragraph, appeal against the determination to a county court, or in Scotland, the sheriff in whose sheriffdom the address in the register is situated.

(8) In this section “prescribed” means prescribed by regulations under this section.

(9) Regulations under this section may provide for the making of a charge in respect of the cost of considering an application for restoration of a licence to practise in prescribed cases.

(10) Regulations under this section may make different provision for different cases and circumstances.

(11) Regulations under this section shall not have effect until approved by order of the Privy Council.

(12) Before making regulations under this section the General Council shall consult with the Council for the Regulation of Health Care Professionals and with such bodies of persons representing medical practitioners, or medical practitioners of any description, as appears to the General Council requisite to be consulted.

Evidence and information

29C.—(1) Regulations under sections 29A and 29B may make provision for the—

- (a) refusal to grant,
- (b) withdrawal, or
- (c) refusal to restore,

a licence to practise where a medical practitioner fails to provide evidence or information reasonably required by a relevant person or Panel for the purposes of revalidation, grant, withdrawal or restoration of a licence to practise in respect of that practitioner.

(2) For the purposes of carrying out his or their functions under section 29A or 29B above a relevant person or Panel may require—

- (a) a medical practitioner (except the medical practitioner in respect of whom a licence to practise is being or has been revalidated, granted, withdrawn or restored); or
- (b) any other person,

who in his or their opinion 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.

(3) Nothing in this section shall require or permit any disclosure of information which is prohibited by or under any other enactment.

(4) But where information is held in a form in which the prohibition operates because the information is capable of identifying an individual, the relevant person or Panel may in exercising his or their functions under subsection (2), require that the information be put into a form which is not capable of identifying that individual.

(5) Subsection (2) shall not apply in relation to the supplying of information or the production of any 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)).

(6) for the purposes of this section—

“a relevant person or Panel” means the Registrar, a Registration Decisions Panel or a person prescribed for the purposes of regulations under section 29A or 29B; and

“enactment” includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.”.

Insertion of new Schedule 3A

8. After Schedule 3 add—

“SCHEDULE 3A

Section 29A and 29B

REVALIDATION CASES - APPEALS

Procedure

1. A medical practitioner who wishes to appeal to a Registration Appeals Panel must give written notice of appeal to the Registrar within the period of 28 days beginning with the day on which he is served with notice of a decision by—

- (a) the Registrar;
- (b) a Registration Decisions Panel; or

- (c) a person prescribed for the purposes of section 29A(5)(d) above or section 29B(4)(e) above,

refusing to grant, withdrawing or refusing to restore a licence to practise under regulations made under section 29A or 29B above.

2.—(1) The Council shall make rules as to the procedure to be followed and rules of evidence to be observed in proceedings before a Registration Appeals Panel.

(2) Rules shall include provision—

- (a) securing that notice that the proceedings are to be brought shall be given, at such time and in such manner as may be specified in the rules, to the medical practitioner to whom the proceedings relate;
- (b) securing that any party to the proceedings shall, if he so requires, be entitled to be heard by a Panel;
- (c) enabling any party to the proceeding to be represented by counsel or solicitor, or (if the rules so provide and the party so elects) by a person of such other description as may be specified in the rules;
- (d) for requiring proceedings to be held in public if the person to whom the proceedings relate requests except in so far as may be provided otherwise by the rules.

(3) Paragraphs 2 and 7 of Schedule 4 to this Act shall apply in relation to proceedings before a Registration Appeals Panel as they apply to proceedings before a Fitness to Practise Panel.

(4) Rules under this paragraph shall not come into force until approved by order of the Privy Council, and the Privy Council may approve such rules either as submitted to them or subject to such modifications as appear to them to be requisite but where the Privy Council propose to approve any rules subject to modifications they shall notify to the General Council the modifications they propose to make and consider any observations of the General Council on them.

(5) Before making rules under this paragraph the General Council shall consult with the Council for the Regulation of Health Care Professionals and with such bodies of persons representing medical practitioners, or medical practitioners of any description, as appears to the General Council requisite to be consulted.

3. Where a Registration Appeal Panel determines under this Schedule that—

- (a) a medical practitioner should be granted a licence to practise, they shall notify him accordingly;
- (b) a medical practitioner should not be granted a licence to practise, they shall serve on him notice of the determination and of his right to appeal against it under section 29A(11) above;
- (c) a medical practitioner's licence to practise should not be withdrawn, they shall notify him accordingly;
- (d) a medical practitioner's licence to practise should be withdrawn, they shall serve on him notice of the determination and of his right to appeal against it under section 29A(11) above;
- (e) a medical practitioner's licence to practise should be restored, they shall notify him accordingly; or
- (f) a medical practitioner's licence to practise should not be restored, they shall serve on him notice of the determination and of his right to appeal against it under section 29B(7) above,

and shall in any case notify the Registrar of the determination.

References to the Investigation Committee

4. Where in the course of proceedings relating to a registered medical practitioner before a Registration Appeals Panel, a matter arises which ought in the opinion of the Panel to be investigated by the Investigation Committee, the Panel may give a direction to that effect to the Registrar and that matter shall be referred to the Investigation Committee.

Notices

5.—(1) Any notice required to be served on a medical practitioner under section 29A or 29B above or under paragraph 3 above may be served on him either by delivering it to him or by leaving it at his proper address or by sending it by a registered post service or by a postal service which provides for the delivery of the notice by post to be recorded.

(2) For the purposes of this paragraph and of section 7 of the Interpretation Act 1978 in its application to this paragraph, a medical practitioner's proper address shall be his address in the register or, if his last known address differs from his address in the register and it appears to the Registrar that a letter sent to him there is more likely to reach him, his last known address.

(3) For the purposes of this paragraph service of a notification 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 so much of the said section 7 as relates to the time when service is deemed to have been effected shall not apply to a notification sent by post.

Extension of time for appealing

6. Where any notice required by section 29A or 29B above to be served on any medical practitioner by the Registrar is served by sending it by post then, on an application made at any time by that practitioner, the Registrar if satisfied that the notice was not received by that practitioner within fourteen days of the giving of the decision to which the notice relates, may if he thinks fit by authorisation in writing extend the time within which an appeal under section 29A(11) or 29B(7) above may be brought against the decision.

Meaning of "Party"

7. In this Schedule "party" means any person who has not been granted a licence to practise, or whose licence to practise has been withdrawn or whose licence to practise has not been restored, or the Solicitor to the General Council.

Supplementary

9.—(1) In section 30(3) (the registers) after "registered in it" insert " , whether they hold a licence to practise,".

(2) In section 31(9) (power to make regulations with respect to the register) for paragraph (b) substitute—

"(b) for securing that, in such circumstances as may be prescribed, such a person's name is not so restored unless—

(i) the General Council, a Registration Decisions Panel, a Registration Appeals Panel or a Fitness to Practise Panel so direct after making such investigation into his fitness to practise as they think fit; or

(ii) the practitioner's licence to practise is restored in accordance with regulations made under section 29B; or

(iii) both (i) and (ii) are met."

(3) In section 31A (voluntary removal from the register), after subsection (1) add—

"(1A) Regulations under subsection (1)(c) above, shall provide that, in such circumstances as may be prescribed a person's name is not restored to the register unless—

(a) the General Council, a Registration Decisions Panel, a Registration Appeals Panel or a Fitness to Practise Panel so direct after making such investigation into his fitness to practise as they think fit; or

(b) the practitioner's licence to practise is restored in accordance with regulations made under section 29B; or

(c) both (a) and (b) are met."

(1B) In subsection (1A) above, "prescribed" means prescribed under regulations made under subsection (1) above.

- (4) In section 46 (recovery of fees), in subsections (1) and (3) after the words “fully registered” insert in both places “and holds a licence to practise”.
- (5) In section 47 (appointments not to be held except by fully registered practitioners)—
- (a) in the heading at the end add “who hold licences to practise”; and
 - (b) in subsection (1) after “fully registered” insert “and who does not hold a licence to practise”.
- (6) In section 48 (certificates invalid if not signed by fully registered practitioner)—
- (a) in the heading at the end add “who holds a licence to practise”; and
 - (b) at the end add “and holds a licence to practise.”.
- (7) After section 49 insert—

“Penalty for pretending to hold a licence to practise

49A. Any person who (whether expressly or by implication) wilfully and falsely pretends to hold or to be the holder of a licence to practise shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.”.

- (8) In paragraphs 11(1) and (2) of Schedule 5 (transitional and saving provisions) for “fully registered person” substitute “registered medical practitioner”.

PART VI

Professional Conduct and Fitness to Practise

Substitution of Part V

- 10.** For Part V (Professional Conduct and Fitness to Practise) substitute—

“PART V

Fitness to Practise and Medical Ethics

General Council’s power to advise on conduct, professional performance or ethics

35. The powers of the General Council shall include the power to provide, in such manner as the Council think fit, advice for members of the medical profession on standards of professional conduct, professional performance or on medical ethics.

General Council’s power to require disclosure of information

35A.—(1) For the purpose of assisting the General Council or any of their committees in carrying out functions in respect of fitness to practise, a person authorised by the Council may require—

- (a) a practitioner (except the practitioner in respect of whom the information or document is sought); or
- (b) any other person,

who in his opinion 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.

(2) As soon as reasonably practicable after the relevant date, the General Council shall require, from a practitioner whose fitness to practise is being investigated, details of any person—

- (a) by whom the practitioner is employed to provide services in, or in relation to, any area of medicine; or
- (b) with whom he has an arrangement to do so.

(3) For the purposes of this section and section 35B the relevant date is the date specified by the General Council by rules under paragraph 1 of Schedule 4.

(4) Nothing in this section shall require or permit any disclosure of information which is prohibited by or under any other enactment.

(5) But where information is held in a form in which the prohibition operates because the information is capable of identifying an individual, the person referred to in subsection (1) may, in exercising his functions under that subsection, require that the information be put into a form which is not capable of identifying that individual.

(6) Subsection (1) shall not apply in relation to the supplying of information or the production of any 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)).

(7) For the purposes of subsection (4), "enactment" includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament.

(8) For the purposes of this section and section 35B, a "practitioner" means a fully registered person, a provisionally registered person or a person registered with limited registration.

Notification and disclosure by the General Council

35B.—(1) As soon as is reasonably practicable after the relevant date, the General Council shall notify the following of an investigation by the General Council of a practitioner's fitness to practise—

- (a) the Secretary of State, the Scottish Ministers, the Department of Health, Social Services and Public Safety in Northern Ireland and the National Assembly for Wales; and
- (b) any person in the United Kingdom of whom the General Council are aware—
 - (i) by whom the practitioner concerned is employed to provide services in, or in relation to, any area of medicine, or
 - (ii) with whom he has an arrangement to do so.

(2) The General Council may disclose to any person any information relating to a practitioner's fitness to practise which they consider it to be in the public interest to disclose.

Fitness to practise

35C.—(1) This section applies where any allegation is made to the General Council against a fully registered practitioner to the effect that his fitness to practise is impaired by reason of—

- (a) misconduct;
- (b) deficient professional performance;
- (c) being convicted or cautioned in the British Islands of a criminal offence, or convicted elsewhere of an offence which, if committed in England and Wales, would constitute a criminal offence;
- (d) his physical or mental health; or
- (e) a determination by a body in the United Kingdom responsible under any enactment for the regulation of a health or social care profession to the effect that his fitness to practise that profession is impaired, or a determination by a licensing body elsewhere to the same effect.

(2) Subsection (1) above is not prevented from applying because the allegation is based on a matter alleged to have occurred outside the United Kingdom or at a time when the practitioner was not fully registered.

(3) It shall be the duty of the Investigation Committee to decide whether any allegation ought to be considered by a Fitness to Practise Panel.

(4) If the Investigation Committee decide that a case ought to be considered by a Fitness to Practise Panel—

- (a) they shall give a direction to that effect to the Registrar;
- (b) the Registrar shall refer the case to a Fitness to Practise Panel; and

- (c) the Registrar shall serve a notification of the decision on the person who is the subject of the allegation and the person making the allegation (if any).
- (5) Where the Investigation Committee are of the opinion that the allegation referred to them ought not to be considered by a Fitness to Practise Panel, they may give a warning to the practitioner regarding his future conduct or performance.
- (6) Except where subsection (5) applies, where the Investigation Committee are of the opinion that the allegation ought not to be considered by a Fitness to Practise Panel—
- (a) they shall give a direction to that effect to the Registrar;
 - (b) the Registrar shall serve a notification of the decision on the practitioner who is the subject of the allegation and the person making the allegation (if any).
- (7) Where the Investigation Committee are of the opinion that an Interim Orders Panel or a Fitness to Practise Panel ought to consider making an interim order under section 41A below—
- (a) they shall give a direction to that effect to the Registrar;
 - (b) the Registrar shall refer the case to an Interim Orders Panel or a Fitness to Practise Panel; and
 - (c) the Registrar shall serve notification of the decision on the person who is the subject of the allegation and the person making the allegation (if any).
- (8) Rules under paragraph 1 of Schedule 4 may make provision for the Registrar or any other officer of the General Council to exercise the function of the Investigation Committee under subsection (3) above, either generally or in relation to specified class or classes of case and, if the rules provide for the Registrar to exercise that function then subsections (4), (6) and (7) above shall apply, but as if paragraph (a) of those subsections were omitted.
- (9) Nothing in this section shall prevent the General Council investigating the fitness to practise of a practitioner under this section where no allegation is made to the General Council, but it comes to its attention that a practitioner's fitness to practise may be impaired.
- (10) Where subsection (9) applies, this section shall apply as if an allegation had been made to the General Council.
- (11) This section applies to a provisionally registered person and to a person registered with limited registration whether or not the circumstances are such that he falls within the meaning in this Act of the expression "fully registered person".
- (12) In this section—
- "allegation" means an allegation of the kind mentioned in subsection (1); and
 - "licensing body" means a regulatory body which has the function of authorising persons to practise a health or social care profession.

Impairment to fitness to practise

35D.—(1) In this section and in Schedule 4 below—

- "a conduct case" means a case involving an allegation of a kind mentioned in section 35C(1)(a) above;
- "a performance case" means a case involving an allegation of a kind mentioned in section 35C(1)(b) above;
- "a conviction case" means a case involving an allegation of a kind mentioned in section 35C(1)(c) above;
- "a health case" means a case involving an allegation of a kind mentioned in section 35C(1)(d) above; and
- "a determination case" means a case involving an allegation of a kind mentioned in section 35C(1)(e) above.

(2) Where a case involves allegations which are proven of more than one kind, a Fitness to Practise Panel may make such direction as is permitted under the subsections below as if the case concerned an allegation of only one of those kind.

(3) Where a Fitness to Practise Panel finds that a fully registered practitioner's fitness to practise is impaired it may if it thinks fit, direct—

- (a) except in a health case, that his name shall be erased from the register;
- (b) that his registration in the register shall be suspended (that is to say, shall not have effect) during such period not exceeding twelve months as may be specified in the direction;
- (c) that his registration shall be conditional on his compliance, during such period not exceeding three years as may be specified in the direction, with such requirements so specified as the Panel think fit to impose for the protection of members of the public or in his interests; or
- (d) in a conduct, conviction or determination case, that he be reprimanded.

(4) Where a fully registered person whose registration is subject to conditions imposed under subsection (3), (5), (7) or (8) above by a Fitness to Practise Panel or under section 41A by an Interim Orders Panel or a Fitness to Practise Panel is judged by a Fitness to Practise Panel to have failed to comply with any of the requirements imposed on him as conditions of his registration that Panel may, if they think fit, direct—

- (a) except in a health case, that his name shall be erased from the register; or
- (b) that his registration in the register shall be suspended (that is to say, shall not have effect) during such period not exceeding twelve months as may be specified in the direction.

(5) Where a Fitness to Practise Panel have given a direction for suspension under subsection (3) or (4) above, a Fitness to Practise Panel may—

- (a) direct that the current period of suspension shall be extended for such further period from the time when it would otherwise expire as may be specified in the direction;
- (b) except in a health case, direct that the name of the person whose registration is suspended shall be erased from the register; or
- (c) direct that the registration of the person whose registration is suspended shall, as from the expiry (or termination under subsection (7)(b) below) of the current period of suspension, be conditional on his compliance, during such period not exceeding three years as may be specified in the direction, with such requirements so specified as the Panel think fit to impose for the protection of members of the public or in his interests;

but, subject to subsection (6) below, the Panel shall not extend any period of suspension under this section for more than twelve months at a time.

(6) In a health case, a Fitness to Practise Panel may make a direction extending a period of suspension indefinitely where—

- (a) the period of suspension will, on the date on which the direction takes effect, have lasted at least two years, and
- (b) the direction is made not more than two months before the date on which the period of suspension would otherwise expire.

(7) Where a Fitness to Practise Panel have made such a direction for indefinite suspension, a Fitness to Practise Panel—

- (a) shall review the suspension when requested to do so by the person whose registration is suspended (but not until two years after the date on which the direction takes effect and not more than once in any period of two years), and
- (b) having carried out such a review, may direct that—
 - (i) the suspension be terminated; or
 - (ii) that person's registration be conditional on his compliance, during such period not exceeding three years as may be specified in the direction, with such requirements so specified as the Panel think fit to impose for the protection of members of the public or in his interests.

(8) Where a Fitness to Practise Panel have given a direction for conditional registration, a Fitness to Practise Panel may—

- (a) direct that the current period of conditional registration shall be extended for such further period from the time when it would otherwise expire as may be specified in the direction;

- (b) revoke the direction or revoke or vary any of the conditions imposed by the direction for the remainder of the current period of conditional registration;
- (c) direct that the registration be suspended during such period not exceeding twelve months as may be specified in the direction; or
- (d) except in a health case, direct that the name of the person whose registration is subject to conditions be erased from the register,

but the Panel shall not extend any period of conditional registration under this section for more than three years at a time.

(9) Subsection (4) above shall apply to a fully registered person whose registration is subject to conditions imposed under subsection (5)(c) above as it applies to a fully registered person whose registration is subject to conditions imposed under subsection (3) above, and subsection (5) above shall apply accordingly.

(10) Where a Fitness to Practise Panel give a direction under this section for erasure, for suspension or for conditional registration or vary the conditions imposed by a direction for conditional registration the Registrar shall forthwith serve on the person to whom the direction applies a notification of the direction or of the variation and of his right to appeal against the decision in accordance with section 40 below.

(11) In subsection (10) above the references to a direction for suspension and a direction for conditional registration include references to a direction extending a period of suspension or a period of conditional registration.

(12) Except as provided for in subsection (13), while a person's registration in the register is suspended by virtue of this section he shall be treated as not being registered in the register notwithstanding that his name still appears in it.

(13) Notwithstanding subsection (12), this section and section 35C above shall continue to apply to a person whose registration in the register is suspended.

(14) This section applies to a provisionally registered person and to a person registered with limited registration whether or not the circumstances are such that he falls within the meaning in this Act of the expression "fully registered person".

Power to order immediate suspension or immediate conditional registration after a finding of impairment of fitness to practise

38.—(1) On giving a direction for erasure or a direction for suspension under section 35D(3), (4) or (8) above, or under rules made by virtue of paragraph 5A(3) of Schedule 4 to this Act, in respect of any person the Fitness to Practise Panel, if satisfied that to do so is necessary for the protection of members of the public or is otherwise in the public interest, or is in the interests of that person, may order that his registration in the register shall be suspended forthwith in accordance with this section; and in this subsection the reference to section 35D(4) includes a reference to that provision as applied in section 35D(9).

(2) On giving a direction for conditional registration under section 35D(3) above, or under rules made by virtue of paragraph 5A(3) of Schedule 4, in respect of any person the Fitness to Practise Panel, if satisfied that to do so is necessary for the protection of members of the public or is otherwise in the public interest, or is in the interests of that person, may order that his registration be made conditional forthwith in accordance with this section.

(3) Where, on the giving of a direction an order under subsection (1) or (2) above is made in respect of a person, his registration in the register shall, subject to subsection (4) below, be suspended (that is to say, shall not have effect) or made conditional, as the case may be, from the time when the order is made until the time when the direction takes effect in accordance with paragraph 10 of Schedule 4 to this Act or in accordance with rules made by virtue of paragraph 5A(3) of that Schedule or an appeal against it under section 40 below or paragraph 5A(4) of that Schedule is (otherwise than by the dismissal of the appeal) determined.

(4) Where a Fitness to Practise Panel make an order under subsection (1) or (2) above the Registrar shall forthwith serve a notification of the order on the person to whom it applies.

(5) If, the person against whom an order is made under subsection (1) or (2) above is neither present nor represented at the proceedings, subsection (3) above shall have effect as if, for the reference to the time when the order is made, there were substituted a reference to the time of service of a notification of the order as determined for the purposes of paragraph 8 of Schedule 4 to this Act.

(6) Except as provided in subsection (7), while a person's registration in the register is suspended by virtue of subsection (1) above he shall be treated as not being registered in the register notwithstanding that his name still appears in it.

(7) Notwithstanding subsection (6), sections 35C and 35D above shall continue to apply to a person whose registration in the register is suspended.

(8) The relevant court may terminate any suspension of registration imposed under subsection (1) above or any conditional registration imposed under subsection (2) above, and the decision of the court on any application under this subsection shall be final.

(9) In this section "the relevant court" has the same meaning as in section 40(5) below.

Fraud or error in relation to registration

39.—(1) If the General Council are satisfied that any entry in the register has been fraudulently procured or incorrectly made they may direct that the entry shall be erased from the register.

(2) Where the General Council give a direction for the erasure of a person's name under this section the Registrar shall forthwith serve on that person a notification of the direction and of his right to appeal against the decision in accordance with section 40 below.

Appeals

40.—(1) The following decisions are appealable decisions for the purposes of this section, that is to say—

- (a) a decision of a Fitness to Practise Panel under section 35D above giving a direction for erasure, for suspension or for conditional registration or varying the conditions imposed by a direction for conditional registration; or
- (b) a decision of a Fitness to Practise Panel under section 41(8) giving a direction that the right to make further applications under that section shall be suspended indefinitely; or
- (c) a decision of the General Council under section 45(6) giving a direction that the right to make further applications under that section shall be suspended indefinitely.

(2) A decision of the General Council under section 39 above giving a direction for erasure is also an appealable decision for the purposes of this section.

(3) In subsection (1) above, the references to a direction for suspension and a direction for conditional registration include references to a direction extending a period of suspension or a period of conditional registration.

(4) A person in respect of whom an appealable decision falling within subsection (1) has been taken may, before the end of the period of 28 days beginning with the date on which notification of the decision was served under 35D(10) above, or section 41(9) or 45(7) below, appeal against the decision to the relevant court.

(5) In subsection (4), "the relevant court"—

- (a) in the case of a person whose address in the register is (or if he were registered would be) in Scotland, means the Court of Session,
- (b) in the case of a person whose address in the register is (or if he were registered would be) in Northern Ireland, means the High Court of Justice in Northern Ireland, and
- (c) in the case of any other person (including one appealing against a decision falling within subsection (1)(b)), means the High Court of Justice in England and Wales.

(6) A person in respect of whom an appealable decision falling within subsection (2) above has been taken may, before the end of the period of 28 days beginning with the date on which notification of the decision was served under section 39(2), appeal against the decision to a county court or, in Scotland, the sheriff in whose sheriffdom the address in the register is situated.

(7) On an appeal under this section from a Fitness to Practise Panel or an Interim Order Panel, the court may—

- (a) dismiss the appeal,
- (b) allow the appeal and quash the direction or variation appealed against,
- (c) substitute for the direction or variation appealed against any other direction or variation which could have been given or made by a Fitness to Practise Panel, or
- (d) remit the case to the Registrar for him to refer it to a Fitness to Practise Panel or an Interim Orders Panel to dispose of the case in accordance with the directions of the court,

and may make such order as to costs (or, in Scotland, expenses) as it thinks fit.

(8) On an appeal under this section from the General Council, the court (or the sheriff) may—

- (a) dismiss the appeal,
- (b) allow the appeal and quash the direction appealed against, or
- (c) remit the case to the General Council to dispose of the case in accordance with the directions of the court (or the sheriff),

and may make such order as to costs (or, in Scotland, expenses) as it (or he) thinks fit.

Restoration of names to the register

41.—(1) Subject to subsections (2) and (5) below, where the name of a person has been erased from the register under section 35D above a Fitness to Practise Panel may, if they think fit, direct his name be restored to the register.

(2) No application for the restoration of a name to the register under this section shall be made to a Fitness to Practise Panel—

- (a) before the expiration of five years from the date of erasure; or
- (b) in any period of twelve months in which an application for the restoration of his name has already been made by or on behalf of the person whose name has been erased.

(3) An application under this section shall be made to the Registrar who shall refer the application to a Fitness to Practise Panel.

(4) In the case of a person who was provisionally registered under section 15, 15A or 21 above before his name was erased a direction under subsection (1) above shall be a direction that his name be restored by way of provisional registration under section 15, 15A or 21 above, as the case requires.

(5) The requirements of Part II or Part III of this Act as to the experience required for registration as a fully registered medical practitioner shall not apply to registration in pursuance of a direction under subsection (1) above.

(6) Before determining whether to give a direction under subsection (1), a Fitness to Practise Panel may require an applicant for restoration to provide such evidence as they direct as to his fitness to practise; and they shall not give such a direction if that evidence does not satisfy them.

(7) A Fitness to Practise Panel shall not give a direction under subsection (1) above unless at the same time it directs that the practitioner's licence to practise be restored in accordance with regulations made under section 29B above.

(8) Where, during the same period of erasure, a second or subsequent application for the restoration of a name to the register, made by or on behalf of the person whose name has been erased, is unsuccessful, a Fitness to Practise Panel may direct that his right to make any further such applications shall be suspended indefinitely.

(9) Where a Fitness to Practise Panel give a direction under subsection (8), the Registrar shall without delay serve on the person in respect of whom it has been made a notification of the direction and of his right to appeal against it in accordance with section 40.

(10) Any person in respect of whom a direction has been given under subsection (8) may, after the expiration of three years from the date on which the direction was given, apply to the Registrar for that direction to be reviewed by a Fitness to Practise Panel and, thereafter, may make further

applications for review; but no such application may be made before the expiration of three years from the date of the most recent review decision.

Interim Orders

41A.—(1) Where an Interim Orders Panel or a Fitness to Practise Panel are satisfied that it is necessary for the protection of members of the public or is otherwise in the public interest, or is in the interests of a fully registered person, for the registration of that person to be suspended or to be made subject to conditions, the Panel may make an order—

- (a) that his registration in the register shall be suspended (that is to say, shall not have effect) during such period not exceeding eighteen months as may be specified in the order (an "interim suspension order"); or
- (b) that his registration shall be conditional on his compliance, during such period not exceeding eighteen months as may be specified in the order, with such requirements so specified as the Panel think fit to impose (an "order for interim conditional registration").

(2) Subject to subsection (9), where an Interim Orders Panel or a Fitness to Practise Panel have made an order under subsection (1), an Interim Orders Panel or a Fitness to Practise Panel—

- (a) shall review it within the period of six months beginning on the date on which the order was made, and shall thereafter, for so long as the order continues in force, further review it before the end of the period of three months beginning on the date of the decision of the immediately preceding review; and
- (b) may review it where new evidence relevant to the order has become available after the making of the order.

(3) Where an interim suspension order or an order for interim conditional registration has been made in relation to any person under any provision of this section (including this subsection), an Interim Orders Panel or a Fitness to Practise Panel may, subject to subsection (4)—

- (a) revoke the order or revoke any condition imposed by the order;
- (b) vary any condition imposed by the order;
- (c) if satisfied that to do so is necessary for the protection of members of the public or is otherwise in the public interest, or is in the interests of the person concerned, replace an order for interim conditional registration with an interim suspension order having effect for the remainder of the term of the former;
- (d) if satisfied that the public interest, including the protection of members of the public, or the interests of the person concerned would be adequately served by an order for interim conditional registration, replace an interim suspension order with an order for interim conditional registration having effect for the remainder of the term of the former.

(4) No order under subsection (1) or (3)(b) to (d) shall be made by any Panel in respect of any person unless he has been afforded an opportunity of appearing before the Panel and being heard on the question whether such an order should be made in his case; and for the purposes of this subsection a person may be represented before the Panel by counsel or a solicitor, or (if rules made under paragraph 1 of Schedule 4 to this Act so provide and he so elects) by a person of such other description as may be specified in the rules.

(5) If an order is made under any provision of this section the Registrar shall without delay serve a notification of the order on the person to whose registration it relates.

(6) The General Council may apply to the relevant court for an order made by an Interim Orders Panel or a Fitness to Practise Panel under subsections (1) or (3) to be extended, and may apply again for further extensions.

(7) On such an application the relevant court may extend (or further extend) for up to 12 months the period for which the order has effect.

(8) In this section, references to an interim suspension order and an order for interim conditional registration include such an order as so extended.

(9) For the purposes of subsection (2) the first review after the relevant court's extension of an order made by an Interim Orders Panel or a Fitness to Practise Panel or after a replacement order

made by an Interim Orders Panel or a Fitness to Practise Panel under subsection (3)(c) or (d) shall take place—

- (a) if the order (or the order which has been replaced) had not been reviewed at all under subsection (2), within the period of six months beginning on the date on which the relevant court ordered the extension or on which a replacement order under subsection (3)(c) or (d) was made; and
 - (b) if it had been reviewed under the provision, within the period of three months beginning on that date.
- (10) Where an order has effect under any provision of this section, the relevant court may—
- (a) in the case of an interim suspension order, terminate the suspension;
 - (b) in the case of an order for interim conditional registration, revoke or vary any condition imposed by the order;
 - (c) in either case, substitute for the period specified in the order (or in the order extending it) some other period which could have been specified in the order when it was made (or in the order extending it), and the decision of the relevant court under any application under this subsection shall be final.

(11) Except as provided in subsection (12), while a person's registration in the register is suspended by virtue of an interim suspension order under this section he shall be treated as not being registered in the register notwithstanding that his name still appears in the register.

(12) Notwithstanding subsection (11), sections 35C and 35D above shall continue to apply to a person whose registration in the register is suspended.

(13) This section applies to a provisionally registered person and to a person registered with limited registration whether or not the circumstances are such that he falls within the meaning in this Act of the expression "fully registered person".

(14) In this section "the relevant court" has the same meaning as in section 40(5) above.

Effect of directions or orders on a licence to practise

41C.— (1) Where under this Part of the Act or under paragraph 5A(3) of Schedule 4 a direction is given or an order is made in respect of a medical practitioner—

- (a) that his name shall be erased from the register; or
- (b) that his registration shall be suspended,

the practitioner's licence to practise shall be withdrawn with effect from the date when the direction or order has effect.

(2) If on appeal the direction or order is quashed (and the Court does not make a direction for erasure or suspension) the practitioner's licence to practise shall be restored.

(3) Where—

- (a) a direction is made under section 35D(5)(c) or (7)(b)(ii) above that a person's whose registration is suspended shall become conditional on compliance with conditions imposed, or
- (b) an order for interim suspension is replaced by an order for interim conditional registration under section 41A(3)(d) above,

the licence to practise of the practitioner concerned shall be restored with effect from the date that his registration becomes conditional.

Proceedings before the Investigation Committee, Interim Orders Panels and Fitness to Practise Panels

43. Schedule 4 to this Act (which contains supplementary provisions about proceedings before the Investigation Committee, Interim Orders Panels and Fitness to Practise Panels) shall have effect.

Effect of disqualification in another member State on registration in the United Kingdom

44.—(1) A person who is subject to a disqualifying decision in an EEA State in which he is or has been established in medical practice shall not be entitled to be registered by virtue of section 3(1)(b) above for so long as the decision remains in force in relation to him.

(2) A disqualifying decision in respect of a person is a decision, made by responsible authorities of the EEA State in which he was established in medical practice or in which he acquired a primary United Kingdom or primary European qualification, and—

- (a) expressed to be made on the grounds that he has committed a criminal offence or on grounds related to his professional conduct, professional performance or his physical or mental health; and
- (b) having in that State the effect either that he is no longer registered or otherwise officially recognised as a medical practitioner, or that he is prohibited from practising medicine there.

(3) If a person has been registered by virtue of section 3(1)(b) above and it is subsequently shown to the satisfaction of the Registrar that he was subject to a disqualifying decision in force at the time of registration, and that the decision remains in force, the Registrar shall remove the person's name from the register.

(4) If registration is refused or a person's name is removed from the register in accordance with subsection (3) above—

- (a) the Registrar shall serve notification of the refusal or removal on that person;
- (b) the Registrar shall, on request, state in writing the reasons for the refusal, or the removal, as the case may be;
- (c) the person may appeal by giving notice in writing to the General Council; and
- (d) any such appeal shall be determined by the General Council or, if the Council have delegated their functions under this subsection to a committee, by that committee.

(5) If a person has been registered as a fully registered medical practitioner by virtue of section 3(1)(b) above at a time when a disqualifying decision was in force in respect of him, and he has been so registered for a period of not less than one month throughout which the decision had effect—

- (a) a Fitness to Practise Panel may direct that his registration be suspended for such period, not exceeding the length of the first-mentioned period, as the Panel think fit, and the period of suspension shall begin on a date to be specified in the Panel's direction; and
- (b) sections 35D(10) and (12) and 40 and paragraphs 1, 2, 8, 9, 10 and 13 of Schedule 4 to this Act shall have effect, with any necessary modifications, in relation to suspension under this subsection.

(6) Where on or after the date on which a person was registered by virtue of section 3(1)(b) above a disqualifying decision relating to him comes into force, this Part of this Act shall apply, with any necessary modifications, as if it had been found that he had been convicted of the criminal offence referred to in the disqualifying decision, or that his professional conduct or professional performance or physical or mental health had been such as is imputed to him by that decision, as the case may be.

(7) Subsection (1) of section 18 above shall not apply to a person and that person shall not be registered as a visiting EEA practitioner at any time when he is subject to a disqualifying decision imposed by a member State or its competent authority (within the meaning of that section).

Effect of disqualification or conviction on registration

44A.—(1) Without prejudice to regulations made under section 31 (power to make regulations with respect to the register), the Registrar may, notwithstanding anything in this Act refuse to register any person under any section of this Act other than sections 3(1)(b) or 18 above who—

- (a) has been convicted or cautioned in the British Islands of a criminal offence or convicted elsewhere of an offence which, if committed in England and Wales would constitute a criminal offence (“a conviction”); or

- (b) has been the subject of a determination by a body in the UK responsible under any enactment for the regulation of a health or social care profession to the effect that his fitness to practise that profession is impaired, or a determination by a licensing body (within the meaning of section 35C(12)) elsewhere to the same effect (“a determination”).

(2) If a person has been registered by virtue of any provision of this Act and it is subsequently shown to the satisfaction of the Registrar that—

- (a) he had been the subject of a conviction or he was or had been the subject of a determination; and
- (b) that he had not informed the Registrar of the conviction or determination at the time of registration,

the Registrar may remove that person’s name from the register.

(3) If registration is refused or if a person’s name is removed from the register in accordance with subsection (1) or (2) above—

- (a) the Registrar shall serve notification of the refusal or removal on that person;
- (b) the Registrar shall, on request state in writing the reasons for the refusal or removal;
- (c) the person may appeal by giving notice to the General Council; and
- (d) any such appeal shall be determined by the General Council or, if the Council have delegated their functions under this subsection to a committee, by that committee.

(4) If a person has been registered by virtue of any section other than section 3(1)(b) or 18 above at a time when a determination was in force, and he has been registered for a period of not less than one month throughout which the determination had effect—

- (a) a Fitness to Practise Panel may direct that his registration be suspended for such period, not exceeding the length of the first mentioned period, as the Panel think fit, and the period of suspension shall begin on a date to be specified in the Panel’s direction; and
- (b) section 35D(10) and (12) and 40 and paragraphs 1, 2, 8, 9, 10 and 13 of Schedule 4 to this Act shall have effect, with any necessary modifications, in relation to suspension under this subsection.

(5) The General Medical Council may by regulations make provision about the information to be provided to the Registrar by the person seeking registration for the purposes of this section.

(6) The Registrar may refuse to register any person who fails to comply with regulations made under subsection (5) above.

(7) Regulations under subsection (5) above shall not have effect until approved by order of the Privy Council.

Disciplinary provisions affecting practitioners who render services while visiting the United Kingdom

45.—(1) If a national of an EEA State who has medical qualifications entitling him to registration under section 3 above but is not so registered and who renders medical services while visiting the United Kingdom (whether or not registered as a visiting EEA practitioner)—

- (a) is found by a Fitness to Practise Panel to have been convicted of a criminal offence in any EEA State where he was practising medicine; or
- (b) a Fitness to Practise Panel finds that his fitness to practise is impaired,

the Panel may, if they think fit, impose on him a prohibition in respect of the rendering of medical services in the United Kingdom in the future.

(2) A prohibition imposed under this section shall either relate to a period specified by a Fitness to Practise Panel or be expressed to continue for an indefinite period.

(3) A person may apply to the General Council for termination of a prohibition imposed on him under this section and the Council may, on any such application, terminate the prohibition or reduce the period of it; but no application may be made under this subsection—

- (a) earlier than five years from the date on which the prohibition was imposed; or
- (b) in the period of twelve months following a decision made on an earlier application.

(4) Section 18(1) above does not apply to a person and that person shall not be registered as a visiting EEA practitioner at a time when he is subject to a prohibition imposed by a Fitness to Practise Panel under this section.

(5) Before determining whether to terminate a prohibition under subsection (3), the General Council shall require the person applying for its termination to provide such evidence as they direct as to one or more of his good character, professional competence and health; and they shall not terminate the prohibition if that evidence does not satisfy them.

(6) Where, during the same period of prohibition, a second or subsequent application for termination of the prohibition, made by or on behalf of a person on whom the prohibition has been imposed, is unsuccessful, the General Council may direct that his right to make any further such applications shall be suspended indefinitely.

(7) Where the General Council give a direction under subsection (6), the Registrar shall without delay serve on the person in respect of whom it has been made a notification of the direction and of his right to appeal against it in accordance with section 40.

(8) Any person in respect of whom a direction has been given under subsection (6) may, after the expiration of three years from the date on which the direction was made, apply to the General Council for that direction to be reviewed by the General Council and, thereafter, may make further applications for review; but no such application may be made before the expiration of three years from the date of the most recent review decision.”

Substitution of Schedule 4

11. For Schedule 4 (proceedings before Professional Conduct, Health and Preliminary Proceedings Committees) substitute—

“SCHEDULE 4

Section 43

PROCEEDINGS BEFORE THE INVESTIGATION COMMITTEE, INTERIM ORDERS PANELS AND FITNESS TO PRACTISE PANELS

Procedure of and evidence before the Investigation Committee, Interim Orders Panels and Fitness to Practise Panels

1.—(1) Subject to the provisions of this paragraph, the General Council shall make rules for Investigation Committee, Interim Orders Panels and Fitness to Practise Panels with respect to the reference of cases to the Investigation Committee, Interim Orders Panels and Fitness to Practise Panels and the procedure to be followed and rules of evidence to be observed in proceedings before the Committee or Panel.

(2) Rules made under this paragraph for the Investigation Committee shall include provision securing that where the Investigation Committee is considering giving a warning to a medical practitioner regarding his future conduct or performance that—

- (a) notice be given to this effect to the person in relation to whom a warning is being considered (“the person concerned”);
- (b) the person concerned shall be entitled to make representations in writing to the Committee;
- (c) if the Committee determines that there should be an oral hearing, the person concerned shall, if he so requires, be entitled to be heard by the Committee, and enabling him to be represented before the Committee by counsel or a solicitor, or (if the rules so provides and he so elects) by a person of such other description as may be specified in the rules; and
- (d) notice be served on the person concerned of any decision taken in relation to him by the Committee.

(3) Rules made under this paragraph for Interim Orders Panels or Fitness to Practise Panels when they are considering making an interim order or when they are reviewing an interim order shall include provision—

- (a) securing that notice that the proceedings are to be brought or that a review is to take place shall be given, at such time and in such manner as may be specified in the rules, to the person to whom the proceedings relate;
 - (b) securing that a person in relation to whom an interim order has been made shall, if he so requires, be entitled to be heard by the Panel on each occasion on which they review the order; and enabling him to be represented before the Panel by counsel or a solicitor, or (if the rules so provide and he so elects) by a person of such other description as may be specified in the rules;
 - (c) for service on the person to whom the proceedings relate of notice of any decision taken in relation to him by the Panel; and
 - (d) determining when proceedings before the Panel are to be held in public and when in private (including provision securing that they are to be held in public if the person to whom the proceedings relate so requests).
- (4) Rules made under this paragraph for Fitness to Practise Panels (other than when subparagraph (3) applies) shall include provision—
- (a) securing that notice that the proceedings are to be brought shall be given, at such time and in such manner as may be specified in the rules, to the person to whose registration the proceedings relate;
 - (b) securing that any party to the proceedings shall, if he so requires, be entitled to be heard by a Panel;
 - (c) enabling any party to the proceedings to be represented by counsel or solicitor, or (if the rules so provide and the party so elects) by a person of such other description as may be specified in the rules;
 - (d) in a conduct, conviction or determination case requiring proceedings before a Panel to be held in public except in so far as may be provided by the rules; and
 - (e) in a health case or a performance case, requiring proceedings before a Panel to be held in public if the person concerned so requests except in so far as may be provided otherwise by the rules.
- (5) Before making rules under this paragraph the General Council shall consult with the Council for the Regulation of Health Care Professionals and with such bodies of persons representing medical practitioners, or medical practitioners of any description, as appears to the General Council requisite to be consulted.
- (6) Rules under this paragraph shall not come into force until approved by order of the Privy Council, and the Privy Council may approve such rules either as submitted to them or subject to such modifications as appear to them to be requisite but where the Privy Council propose to approve any rules subject to modifications they shall notify to the General Council the modifications they propose to make and consider any observations of the General Council on them.
- 2.—(1) For the purpose of proceedings before the Investigation Committee, an Interim Orders Panel or a Fitness to Practise Panel in England or Wales or in Northern Ireland the Committee or Panel may administer oaths, and any party to the proceedings may issue a writ of subpoena ad testificandum or duces tecum, but no person shall be compelled under any such writ to produce any document which he could not be compelled to produce on the trial of an action.
- (2) Section 36 of the Supreme Court Act 1981 or section 67 of the Judicature (Northern Ireland) Act 1978 (which provide a special procedure for the issue of such writs so as to be in force throughout the United Kingdom) shall apply in relation to proceedings before the Investigation Committee, an Interim Orders Panel or a Fitness to Practise Panel in England and Wales or, as the case may be, in Northern Ireland as those provisions apply in relation to causes or matters in the High Court or actions or suits pending in the High Court of Justice in Northern Ireland.
- (3) For the purpose of proceedings before the Investigation Committee, an Interim Orders Panel or a Fitness to Practise Panel in Scotland, the Committee or Panel may administer oaths and the Court of Session shall on the application of any party to the proceedings have the like power as in any action in that court—

- (a) to grant warrant for the citation of witnesses and havers to give evidence or to produce documents before the Committee or Panel and for the issue of letters of second diligence against any witness or haver failing to appear after due citation;
- (b) to grant warrant for the recovery of documents; and
- (c) to grant commissions to persons to take the evidence of witnesses or to examine havers and receive their exhibits and productions.

3. Where—

- (a) several sittings of the Investigation Committee, an Interim Orders Panel or a Fitness to Practise Panel or of the General Council are required to enable the Committee, a Panel or the Council to dispose of a case; or
- (b) on an appeal to the relevant court under section 40 of this Act, the case is remitted to the registrar for him to refer the case to a Fitness to Practise Panel or to the General Council for the Panel or the Council to dispose of the case in accordance with directions given by the court (or the sheriff),

the validity of the proceedings on the case before the Investigation Committee, an Interim Orders Panel or a Fitness to Practise Panel or the General Council, as the case may be, shall not be called into question by reason only that members of the Committee, Panel or Council who were present at a former meeting were not present at a later meeting of the Committee, Panel or Council or that members present at a later meeting were not present at a former meeting of the Committee, Panel or Council, as the case may be.

Reference and transfer of cases to the Investigation Committee

3A.—(1) Where a Fitness to Practise Panel in the course of inquiring into a case of a practitioner, is of the opinion that a matter arises which ought to be investigated by the Investigation Committee or considered by another Fitness to Practise Panel that Panel may give a direction to that effect to the Registrar and that matter shall be referred by the Registrar to that Committee, or another Fitness to Practise Panel.

(2) Nothing in paragraph (1) above shall prevent that Fitness to Practise Panel from considering that matter itself, whether or not it has reached a decision on the allegation referred to it by the Registrar.

Professional Performance Assessments

5A.—(1) The General Council may make rules—

- (a) authorising the giving of directions by any of—
 - (i) the Investigation Committee,
 - (ii) a Fitness to Practise Panel,
 - (iii) such other persons as may be specified in the rules,requiring an assessment of the standard of a registered person's professional performance to be carried out;
- (b) specifying circumstances in which such an assessment may be carried out otherwise than in accordance with a direction.

(2) An assessment carried out by virtue of this paragraph shall be carried out by an Assessment Team in accordance with rules under this paragraph; and the rules shall, in particular, provide—

- (a) for the constitution and proceedings of Assessment Teams;
- (b) for the procedures to be followed by such teams in carrying out assessments;
- (c) for the procedures to be followed following the making of a report by an Assessment Team.

(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.

(3) Rules under this paragraph may authorise a Fitness to Practise Panel to make directions of a kind which may be made under section 35D of this Act, for the suspension of, or the attachment of conditions to a person's registration, where the person fails to comply with reasonable requirements imposed by an Assessment Team for the purposes of carrying out an assessment of the standard of his professional performance in accordance with a direction made under rules under this paragraph.

(3A) Rules under this paragraph may provide for the Investigation Committee to give a direction to the Registrar that a case be referred, or for the Registrar to refer a case, to a Fitness to Practise Panel for the purposes of that Panel making a direction under paragraph (3) above.

(5) An appeal shall lie to the relevant court (within the meaning of section 40(5) of this Act) from any direction of a Fitness to Practise Panel given by virtue of sub-paragraph (3) 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 the Panel could have made, or
- (c) remit a case to the Registrar for him to refer the case to a Fitness to Practise Panel to be disposed of in accordance with the court's directions;

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

(6) An Assessment Team, 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;
- (b) where such records are kept otherwise than in legible form, may require a copy of them to be given to the panel in legible form.

(7) A person who, without reasonable excuse, obstructs an Assessment Team in the execution of their 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; 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 may, in exercising their 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.

(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.

5B.—(1) A justice of the peace (including, in Scotland, a sheriff) may issue a warrant under this paragraph if satisfied by the evidence on oath of at least two members of an Assessment Team that there are reasonable grounds for suspecting that the panel will require a warrant for the purposes of carrying out an assessment required by virtue of rules made under paragraph 5A above.

(2) A warrant under this paragraph shall authorise one or more members of the Assessment Team (who must, if so required, produce documents identifying themselves) together with any constables—

- (a) to enter any building specified in the warrant, but not a dwelling-house, using such force as is reasonably necessary for the purpose, and
- (b) to search the premises for the purposes of the exercise of the powers under paragraph 5A(6) above.

(3) A warrant under this paragraph shall continue in force until the end of the period of 21 days beginning with the day on which it is issued.

(4) A person who intentionally obstructs the exercise of any rights conferred by a warrant issued under this paragraph shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Proceedings for erasure of entries fraudulently or incorrectly made

6.—(1) The General Council shall make rules with respect to the discharge by the Council of their functions under section 39 of this Act.

(2) If the Council delegate their functions under that section to a Fitness to Practise Panel or other committee, rules shall make provision with respect to the discharge of those functions by the Panel or committee.

(3) Sub-paragraph (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.

Legal assessors

7.—(1) For the purposes of advising the Investigation Committee where it is considering giving a warning, an Interim Orders Panel or a Fitness to Practise Panel on questions of law arising in proceedings before them there shall in all such proceedings be an assessor to the Panel who shall be appointed by the General Council and shall be—

- (a) a person who has a 10 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;
- (b) an advocate or solicitor in Scotland of at least 10 years' standing; or
- (c) a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 10 years' standing.

(2) An assessor may be appointed under this paragraph either generally or for any particular proceedings or class of proceedings.

(3) The Lord Chancellor or, in relation to proceedings in Scotland, the Secretary of State may make rules as to the functions of assessors appointed under this paragraph, including without prejudice to the generality of the powers to make such rules, the function of advising on the drafting of decisions.

(4) Rules made under this paragraph in relation to proceedings before the Investigation Committee, an Interim Orders Panel or a Fitness to Practise Panel may in particular contain such provisions as appear to the Lord Chancellor or the Secretary of State expedient for securing—

- (a) that where an assessor advises the Committee or a Panel on any question of law as to evidence, procedure or any other matter specified in the rules, he shall do so in the presence of every party, or person representing a party, to the proceedings who appears at the proceedings or, if the advice is tendered after the Committee or the Panel have begun to deliberate as to their findings, that every such party or person shall be informed what advice the assessor has tendered,
- (b) that every such party or person shall be informed if in any case the Committee or the Panel do not accept the advice of the assessor on any such question, and such incidental and supplementary provisions as appear to the Lord Chancellor or the Secretary of State expedient.

(5) The General Council may pay to persons appointed to act as assessors such remuneration as the Council may determine.

(6) The power to make rules under this paragraph shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

Service of notifications of decisions

8.—(1) Any notification required by 35C(4), (6) or (7), 35D(10), 39(2), 41(9), 41A(5), 44(4), 44A(3) or (4) or 45(7) of this Act to be served on a person by the Registrar may be served on him either by delivering it to him or by leaving it at his proper address or by sending it by a registered post service or by a postal service which provides for the delivery of the notification to be recorded.

(2) For the purposes of this paragraph and of section 7 of the Interpretation Act 1978 in its application to this paragraph, a person's proper address shall be his address in the register or, if his last known address differs from his address in the register and it appears to the Registrar that a letter sent to him there is more likely to reach him, his last known address.

(3) For the purposes of this paragraph service of a notification 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 so much of the said section 7 as relates to the time when service is deemed to have been effected shall not apply to a notification sent by post.

Extension of time for appealing

9. Where any notification required by section 35D(10) or 39(2) of this Act to be served on a person by the Registrar is served on him by sending it by post then, on an application made at any time by that person, the Registrar, if satisfied that the notification was not received by that person within fourteen days of the giving of the decision to which the notification relates, may if he thinks fit by authorisation in writing extend the time within which an appeal under section 40 of this Act may be brought against the decision.

Taking effect of directions for erasure, suspension or conditional registration and of variations of conditions of registration

10.—(1) A direction for erasure, for suspension or for conditional registration given by a Fitness to Practise Panel under section 35D or a variation by a Fitness to Practise Panel of the conditions imposed by a direction for conditional registration under section 35D(8) of this Act shall take effect—

- (a) where no appeal under section 40 is brought against the direction or variation within the time specified in that section, on the expiration of that time;
- (b) where such an appeal is so brought but is withdrawn or dismissed for want of prosecution, on the withdrawal or dismissal of the appeal;
- (c) where such an appeal is so brought and is not withdrawn or dismissed for want of prosecution, if and when the appeal is dismissed.

(2) Where the time for appealing against a direction or variation such as is mentioned in sub-paragraph (1) above is extended by an authorisation under paragraph 9 above, sub-paragraph (1) shall apply to the direction or variation as if the reference in (a) to the time specified in section 40 of this Act were a reference to that time as so extended; and if the authorisation is given after the expiration of the time specified in the section 40 of this Act, the direction or variation shall be deemed not to have taken effect on the expiration of that time, and any reference in this Act to the time when such a direction takes effect in accordance with this paragraph shall be construed accordingly.

(3) Any reference in this paragraph to a direction for suspension or for conditional registration includes a reference to a direction extending a period of suspension or conditional registration.

11.—(1) If, while a person's registration is suspended under section 35D(3) of this Act, a direction is given under subsection (5) or (7)(b)(ii) of that section, the suspension of his registration shall continue to have effect throughout any period which may intervene between the time when, but for this sub-paragraph, the suspension of his registration would end and the time when the direction takes effect in accordance with paragraph 10 above or an appeal against it under section 40 of this Act is (otherwise than by the dismissal of the appeal) determined.

(2) If, on the determination of an appeal under section 40 of this Act, a direction extending a current period of suspension for a further period takes effect after the time when, but for sub-paragraph (1) above, the current period of suspension would have ended, that further period shall be treated as having started to run from that time.

(3) If, while a person's registration is subject to conditions imposed under section 35D(3) of this Act, a direction is given under subsection (4) or (8) of that section the conditions attached to his registration shall continue to attach to it throughout any period which may intervene between the time when, but for this sub-paragraph, his registration would cease to be conditional and the time when the direction takes effect in accordance with paragraph 10 above or an appeal against it under section 40 of this Act is (otherwise than by the dismissal of the appeal) determined.

(4) If, on the determination of an appeal under section 40 of this Act, a direction extending a current period of conditional registration for a further period takes effect after the time when, but for

sub-paragraph (3) above, the current period of conditional registration would have ended, that further period shall be treated as having started to run from that time.

Recording of directions for suspension or conditional registration

12. Where a direction under section 35D of this Act for suspension or for conditional registration or reprimand takes effect in relation to any person the Registrar shall record in the register the fact that that person's registration is suspended or subject to conditions or that he has been reprimanded.

Meaning of "party"

13. In this Schedule "party", in relation to proceedings before the Investigations Committee, an Interim Order Panel or Fitness to Practise Panel means any person to whose registration the proceedings relate, or the Solicitor to the General Council."

PART VII

MISCELLANEOUS

Miscellaneous Amendments

12.—(1) In section 10(1) (experience required for full registration by virtue of primary United Kingdom qualifications) and Schedule 3 (registration: supplementary provisions) for "section 3(a)" or "paragraph (a) of section 3" as the case may be substitute "section 3(1)(a)".

(2) For section 47(3) (appointments not to be held except by fully registered practitioners) substitute—

"(3) None of the events mentioned in subsection (4) shall terminate any appointment such as is mentioned in subsection (1) above, but the person suspended shall not perform the duties of such an appointment during the suspension.

(4) The events are—

- (a) the suspension of registration of a fully registered person by a Fitness to Practise Panel in a health or performance case (within the meaning of section 35D above) under section 36D above or under rules made by virtue of paragraph 5A(3) of Schedule 4 to this Act;
- (b) an order for immediate suspension by a Fitness to Practise Panel under section 38(1) above; and
- (c) an interim order by an Interim Orders Panel or Fitness to Practise Panel under section 41A above."

(3) In section 50(1)(b) (default powers of Privy Council), omit "or 34(2)".

(4) After section 52 add—

"Annual reports

52A.—(1) The General Council shall publish at least once in each year a statistical report which indicates the efficiency and effectiveness of the arrangements the Council has put in place to protect the public from persons whose fitness to practise is impaired, together with the General Council's observations on the report.

(2) The General Council—

- (a) within such time as may be specified by the Privy Council, shall submit a report to it on the General Council's exercise of its functions during the period specified by the Privy Council; and
- (b) thereafter submit such a report once in each year in respect of the period since its last such report.

(3) The Privy Council shall lay before each House of Parliament a copy of the report submitted by the Council under subsection (2)."

(5) In section 53(2) (proof of certain instrument—

- (a) in paragraph (b) for “section 31 or 32” substitute “section 29A, 29B, 31 or 32”; and
- (b) for paragraph (c) substitute—
 - “(c) an order of a Fitness to Practise Panel under section 38 above; and”.
- (6) In section 55 (interpretation)—
 - (a) omit the definition of recognised overseas qualification;
 - (b) in the definition of “fully registered person” for “section 3, 19 or 27” above substitute “section 3, 19, 21A, 25 or 27 above”;
 - (c) insert the following definitions in the appropriate alphabetical positions—
 - ““fitness to practise” shall be construed in accordance with section 35C;”
 - ““licence to practise” means a licence to practise granted under section 29A or 29B of this Act;”
 - ““professional performance” includes a medical practitioner’s professional competence;”
 - ““revalidation” has the meaning given by section 29A above;”
- (7) In paragraph 16 of Schedule 1—
 - (a) in sub-paragraph (2) at the beginning omit “The President and”; and
 - (b) after sub-paragraph (3) add—
 - “(4) Subject to paragraph 6 of Schedule 4, the Registrar shall, in addition to the functions specifically mentioned in this Act, have such other functions as the General Council may think fit to direct him to perform or delegate to him (whether or not in rules or standing order).”;

Consequential, transitional and saving provisions etc.

- 13.—(1) The consequential amendments contained in the Schedule 1 to this Order shall have effect.
- (2) The transitional and saving provisions in Schedule 2 to this Order shall have effect.
- (3) The Privy Council may by Order make such further consequential, transitional or saving provision as it considers necessary or expedient for the purposes of, in consequence of or for giving full effect to any provision of this Order.
- (4) An Order under paragraph (3) above is exercisable by statutory instrument and is to be subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) The power vested in the Privy Council to make an Order under paragraph (3) above may be exercised by any two or more of the lords and others of the Council.

Clerk of the Privy Council

SCHEDULE 1

Article 13(1)

CONSEQUENTIAL AMENDMENTS

PART I

PRIMARY LEGISLATION

Criminal Procedure (Insanity) Act 1964 (c.84)

1. In section 8 of the Criminal Procedure (Insanity) Act 1964 (short title, interpretation, commencement, extent and repeals), in the definition of “registered medical practitioner”, after “Medical Act 1983” insert “who holds a licence to practise”.

Criminal Appeal Act 1968 (c.19)

2. In section 51 of the Criminal Appeal Act 1968 (interpretation), in subsection (1), after “Medical Act 1983” insert “who holds a licence to practise”.

National Health Service Act 1977 (c.49)

3. For section 29(8) and (9) of the National Health Service Act 1977 (arrangements and regulations for general medical services) substitute—

(8) Where the registration of a medical practitioner in the register of practitioners is suspended—

- (a) by a direction of a Fitness to Practise Panel under section 35D of the Medical Act 1983 (impairment of fitness to practise) following a finding that his fitness to practise was impaired by reason of his physical or mental health;
- (b) by an order of that Panel under section 38(1) of that Act (power to order immediate suspension etc.); or
- (c) by an interim order under section 41A of that Act (interim orders),

the suspension shall not terminate any arrangements made with him for the provision of general medical services, but he shall not provide such services during the suspension.

(9) Where the registration of a medical practitioner in the register of medical practitioners is suspended—

- (a) by a direction of a Fitness to Practise Panel under section 35D of the Medical Act 1983 (impairment of fitness to practise) following a finding that his fitness to practise was impaired by reason of deficient professional performance;
- (b) by an order of that Panel under section 38(1) of that Act (power to order immediate suspension etc.); or
- (c) under rules made by virtue of paragraph 5A(3) of Schedule 4 to that Act (procedure of committees),

the suspension shall not, except in so far as provided by a determination in accordance with regulations under subsection (2) above, terminate any arrangements made with him for the provision of general medical services; but he shall not provide such services during the suspension.¹

Interpretation Act 1978 (c.30)

4. In Schedule 1 to the Interpretation Act 1978 (words and expressions defined) for the definition of “Registered medical practitioner” substitute—
“Registered medical practitioner” means a fully registered person within the meaning of the Medical Act 1983 who holds a licence to practise.”.

Dentists Act 1984 (c. 24)

5. For section 37(3) of the Dentists Act 1984 (definition of practice of dentistry) substitute—

“(3) In this section “medical authority” means one of the universities or other bodies listed in section 4(2) of the Medical Act 1983 (qualifying examinations and primary United Kingdom qualifications) which is entitled to hold qualifying examinations for the purpose of granting one or more primary United Kingdom medical qualifications.”.

Merchant Shipping Act 1995 (c.21)

6. In section 313 of the Merchant Shipping Act 1995 (definitions), in subsection (1), insert in the appropriate place—

“ “doctor” means a registered medical practitioner;”.

PART 2

SECONDARY LEGISLATION

Rabies (Importation of Dogs, Cats and Other Mammals) Order 1974(a)

14. In article 2 of the Rabies (Importation of Dogs, Cats and Other Mammals) Order 1974 (interpretation), in paragraph 1 in the entry for “registered medical practitioner” at the end add “who holds a licence to practise”.

Pharmaceutical Society (Statutory Committee) Order 1978(b)

15. In Part IV of the appendix to the Pharmaceutical Society (Statutory Committee) Order 1978 (applications for relief from consequences of previous decisions), in Regulation 31, for “the Medical Acts 1956 to 1969” substitute “ the Medical Act 1983, including a fully registered medical practitioner who does not hold a licence to practise”.

Medicines (Contact Lens Fluid and Other Substances) (Exemptions from Licences) Order 1979(c)

16. In section 1 of the Medicines (Contact Lens Fluid and Other Substances) (Exemptions from Licences) Order 1979 (citation, commencement and interpretation), in paragraph 2, in the appropriate place insert —

“ “doctor” means a registered medical practitioner;”.

Pension Appeals Tribunals (England and Wales) Rules 1980(d)

17. In regulation 12 of the Pension Appeals Tribunals (England and Wales) Rules 1980 (Evidence), in paragraphs 1 and 2, for “doctor” wherever it appears, substitute “registered medical practitioner”.

Public Lending Right Scheme 1982 (Commencement Order) 1982(e)

18. In the appendix to the Public Lending Right Scheme 1982 (Commencement Order) 1982, in article 14A(c)(ii) (forms of application in respect of posthumously eligible books) and schedule 1 Part 1 (application for first registration) in paragraph 5, for “doctor” substitute “registered medical practitioner, who need not hold a licence to practise,” .

(a) S.I. 1974/2211
(b) S.I. 1978/20.
(c) S.I. 1979/1585.
(d) S.I. 1980/1120.
(e) S.I. 1982/719.

Nursing Homes and Mental Nursing Homes Regulations 1984(a)

19. In regulation 2 of the Nursing Homes and Mental Nursing Homes Regulations 1984 (interpretation), in the definition of “medical practitioner”, after “Medical Act 1983” insert “who holds a licence to practise”.

Dental Auxiliaries Regulations 1986(b)

20. In regulation 5 of the Dental Auxiliaries Regulations 1986 (the rolls and enrolment) in paragraph (c), after “practitioner” insert “who need not hold a licence to practise”.

21. In regulation 18(2) of the Dental Auxiliaries Regulations 1986 (restoration after erasure for misconduct), after “practitioners” insert “who need not hold licences to practise”.

Sight Testing (Examination and Prescription)(No. 2) Regulations 1989(c)

22. In regulation 8 of the Sight Testing (Examination and Prescription)(No. 2) Regulations 1989 (interpretation), in the definition of “doctor”, after “Medical Act 1983” insert “who holds a licence to practise”.

Abortion (Scotland) Regulations 1991(d)

23. In regulation 5 of the Abortion (Scotland) Regulations 1991 (restriction on disclosure of information), in paragraph (h), for “there has been serious professional misconduct by a practitioner” substitute “the fitness to practise of the practitioner is impaired”.

Abortion Regulations 1991(e)

24. In regulation 5 of the Abortion Regulations 1991 (restriction on disclosure of information), in paragraph (h), for “there has been serious professional misconduct by a practitioner” substitute “the fitness to practise of the practitioner is impaired”.

National Health Service (General Medical Services) Regulations 1992(f)

25. In regulation 2 of the National Health Service (General Medical Services) Regulations 1992 (interpretation)—

- (a) in the definition of “medical register” for “section 34” substitute “section 2”;
- (b) the entry for “Preliminary Proceedings Committee” shall be omitted and in the appropriate place there shall be substituted “ “Investigation Committee” means the Investigation Committee of the General Medical Council referred to in section 1(3) of the Medical Act 1983;”; and
- (c) the entry for “Professional Conduct Committee” shall be omitted and in the appropriate place there shall be substituted “ “a Fitness to Practise Panel” means a Fitness to Practise Panel referred to in section 1(3) of the Medical Act 1983;”.

26. In schedule 2 (terms of service for doctors) in paragraph 18A (out of hours arrangements), in subparagraph (7)(h), for paragraph (ii), substitute—

“he has been notified under section 35C(4) of the Medical Act 1983 that the Investigation Committee of the General Medical Council has decided that a case of which he is the subject should be referred to a Fitness to Practise Panel.”

(a) S.I. 1984/1578.
(b) S.I. 1986/887.
(c) S.I. 1989/1230.
(d) S.I. 1991/460.
(e) S.I. 1991/499.
(f) S.I. 1992/635.

National Health Service (Pharmaceutical Services) Regulations 1992(a)

27. In regulation 2 of the National Health Service (Pharmaceutical Services) Regulations 1992 (interpretation), in the definition of “doctor”, after “means a” insert “registered”.

Children (Northern Ireland) Order 1995(b)

28. In article 2 of the Children (Northern Ireland) Order 1995 (interpretation), in the entry for “medical practitioner” at the end add “who holds a licence to practise”.

Merchant Shipping (Ships’ Doctors) Regulations 1996(c)

29. In regulation 2 of the Merchant Shipping (Ships’ Doctors) Regulations 1995 (interpretation), in the definition of “qualified doctor” at the end add “who holds a licence to practise”.

Cosmetic Products (Safety) Regulations 1996(d)

30. In regulation 8 of the Cosmetic Products (Safety) Regulations 1996 (product information), in paragraph (3)(b), after “fully registered medical practitioner” insert “and holds a licence to practise”.

Reserve Forces (Call-out and Recall) (Exemptions Etc) Regulations 1997(e)

31. In regulation 2 of the Reserve Forces (Call-out and Recall) (Exemptions Etc) Regulations 1997 (interpretation), in paragraph (1) insert in the appropriate place “ “doctor” means a registered medical practitioner;”.

Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Employment of Young Persons) Regulations 1998(f)

32. In regulation 8 of the Merchant Shipping and Fishing Vessels (Health and Safety at Work) (Employment of Young Persons) Regulations 1998 (young persons’ medical certificates), in paragraph (1) after “Medical Act 1983” insert “who holds a licence to practise”.

National Health Service (Personal Medical Services) (Scotland) Regulations 2001(g)

33. In regulation 7 of the National Health Service (Personal Medical Services) (Scotland) Regulations 2001 (performance of personal medical services by medical practitioners), in paragraph 2, for sub-paragraph (e) substitute—

“(e) is the subject of a direction given by a Fitness to Practise Panel under section 35D of the Medical Act 1983 (impairment of fitness to practise) that his name be erased or that his registration in the register be suspended following a finding by that Panel that his fitness to practise was impaired by reason of misconduct, conviction or determination, or of an order made by that Panel under section 38 (1) of that Act (order for immediate suspension);”.

National Health Service (General Medical Services Supplementary List) Regulations 2001(h)

34. In regulation 10 of the National Health Service (General Medical Services Supplementary List) Regulations 2001 (removal from supplementary list), in paragraph (1), for sub-paragraph (f) substitute—

“(f) he is the subject of –

-
- (a) S.I. 1992/662.
 - (b) S.I. 1995/755.
 - (c) S.I. 1995/1803.
 - (d) S.I. 1996/2925.
 - (e) S.I. 1997/307.
 - (f) S.I. 1998/2411.
 - (g) S.I. 2001/72.
 - (h) S.I. 2001/3740.

- (i) a direction given by a Fitness to Practise Panel under 35D of the Medical Act 1983 (impairment of fitness to practise) that his name be erased or that his registration in the register be suspended following a finding that his fitness to practise was impaired by reason of misconduct, conviction or determination, or
- (ii) an order made by that Panel under section 38(1) of that Act (order for immediate suspension);”.

SCHEDULE 2

Article 13(2)

TRANSITIONAL PROVISIONS

1. In this Schedule a reference to an old section of the Act shall be construed as a reference to that provision as it had effect prior to its amendment or substitution by this Order and a reference to a new section of the Act shall be construed as a reference to that provision as amended or substituted or re-enacted (with or without modification) by this Order.

2.—(1) A person who, before 31 October 2003, is awarded a recognised overseas qualification which but for the substitution of old section 19 of the Act by this Order would have entitled him to be—

- (a) fully registered under that section, or
- (b) provisionally registered under section 21 of the Act and, on satisfying the requirements under section 20(2)(a) of the Act as to experience, to be fully registered under section 19 of the Act,

shall if he applies to the Registrar in accordance with sub-paragraph (2) be eligible for full registration or provisional registration and subsequently full registration as if section 19 had not been substituted and those other sections had not been repealed or modified by this Order.

(2) An application for full registration shall (except where sub-paragraph (3) applies) be made not later than 31 December 2003.

(3) An application for provisional registration shall be made not later than 31 December 2003 and subsequently to that application an application for full registration may be made at any time.

(4) In this paragraph “recognised overseas qualification” has the meaning given to it by old section 19 of the Act.

3. In relation to the substitution of old section 19 of the Act—

- (a) the General Council may continue to provide facilities for the testing the knowledge of English of an applicant under old section 19 or 21 of the Act;
- (b) section 29(2)(a) and (b) shall have effect as if it included a decision under old section 19 or 21 of the Act respectively;
- (c) section 29(3) shall apply in relation to applications made under the old section 19 or 21 as if article 5(j)(ii) of this Order had not been brought into force; and
- (d) old section 30(1) and new section 30(1) of the Act shall apply as if the reference in paragraph (a) included a reference to old section 19 or 21 of the Act.

4. All entries in the overseas list at the date of the coming into force of the abolition of the overseas list shall be transferred to the principal list.

5. Any person who is successful in an appeal under regulations made under section 31(6) shall have his name entered on the principal list.

6. Except as regards the overseas list, nothing in the repeals made by this Order shall affect any registration or entry or note in a register which has effect by virtue of any enactment repealed by this Order.

7. A person shall be entitled to recover any charge under new section 46(1) of the Act notwithstanding that he does not hold a licence to practise if the charge relates to a matter which took place before the commencement of article 9(4) of this Order and new section 46(3) shall apply as if the words “and holds a licence to practise” were omitted.

8. The events referred to in new section 47(4) of the Act shall include those which were within old section 47(3) immediately before the commencement of article 12(2) of this Order.

9. A certificate signed by a person who is full registered but who does not hold a licence to practice shall be valid notwithstanding new section 48 of the Act if it were signed before the commencement of article 9(6) of this Order.

10. Section 53(2) of the Act shall apply to an order of the Professional Conduct Committee, the Committee on Professional Performance or the Health Committee under section 38 of the Act.

11. Where proceedings are pending before the Committee on Professional Performance or an appeal against a direction of that Committee is pending on the date of the commencement of article 12(6)(c) of this Order in so far as it relates to the definition of professional performance, the Committee or the court shall dispose of the proceedings as if that provision was not in force.

12. Until the Council for the Regulation of Healthcare Professionals is established sections 29A(17) and 29B(12) of, paragraph 2(5) of Schedule 3A to, and paragraph 1(5) of Schedule 4 to, the Act shall apply as if the reference to that Council were omitted.



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