
STATUTORY INSTRUMENTS

2003 No. 1250

**The General and Specialist Medical Practice
(Education, Training and Qualifications) Order 2003**

PART 7

MISCELLANEOUS

Fees

24.—(1) The Board and the GMC may each charge reasonable fees to cover the cost of providing services in the course of the performance of any of its functions under or by virtue of this Order.

(2) The Board and the GMC may each set those fees at levels such that the fees also cover the cost of such of its overheads as are reasonably attributable to the performance of its functions under or by virtue of this Order, but the fees must not include any element of profit.

(3) The fee charged by the Board or the GMC for any particular service must not include more than a reasonable proportion of the total cost of its overheads referred to in paragraph (2).

(4) This article does not prevent the GMC, where it has power to do so, from setting any other fee which it has power to charge at a level designated to include costs referred to in this article, but any costs recovered that way cannot also be recovered by way of fees under this article.

(5) If the Board or the GMC charges any fee in accordance with paragraph (1), it shall specify the amount of the fee in rules.

Rules and orders

25.—(1) Any rules made by the Board or the GMC under this Order may make different provision with respect to different cases or classes of case or in respect of different areas of the United Kingdom.

(2) Rules made under article 24 or paragraph 2(3) of Schedule 2 shall not come into force until approved by order by the Secretary of State but the Secretary of State shall not approve these rules unless he has consulted—

- (a) the Scottish Ministers;
- (b) the Department of Health, Social Services and Public Safety in Northern Ireland; and
- (c) the National Assembly for Wales.

(3) Except for rules made under article 24 or paragraph 2(3) of Schedule 2, the Board shall publish rules made under this Order (electronically or otherwise).

(4) The power of the Secretary of State to make an order under this Order, including an order made under paragraph (2), is exercisable by statutory instrument, and a statutory instrument containing such an order shall be subject to annulment in pursuance of a resolution of either House of Parliament

and for the purposes of section 1 of the Statutory Instruments Act 1946(1) this provision shall have effect as if contained in an Act of Parliament.

Default powers of the Secretary of State

26.—(1) If it appears to the Secretary of State that the Board has failed to perform any function which, in the opinion of the Secretary of State, should have been performed by it, the Secretary of State may notify the Board of his opinion and require the Board to make representations to him.

(2) The Secretary of State may, having considered the representations of the Board, give such directions (if any) to the Board as he considers appropriate.

(3) If the Board fails to comply with any directions given under this article, the Secretary of State may give effect to the direction.

(4) For the purpose of giving effect to a direction under paragraph (3), the Secretary of State may—

- (a) exercise any power of the Board or do any act or other thing authorised to be done by the Board; and
- (b) do, of his own motion, any act or other thing which he is otherwise authorised to do under this Order at the instigation of the Board.

(5) The Secretary of State shall not take any action pursuant to paragraphs (1) to (4) unless he has consulted—

- (a) the Scottish Ministers;
- (b) the Department of Health, Social Services and Public Safety in Northern Ireland; and
- (c) the National Assembly for Wales.

Annual reports

27.—(1) The Board shall—

- (a) within such time as directed by the Secretary of State, submit a report to him on the Board's exercise of its functions during the period specified by the Secretary of State; and
- (b) thereafter submit such a report once in each calendar year in respect of the period since its last such report.

(2) Within the times specified in paragraph (1), the Board shall also send a copy of the report to the Scottish Ministers, the Department of Health, Social Services and Public Safety in Northern Ireland and the National Assembly for Wales.

(3) The Secretary of State shall lay before each House of Parliament a copy of every report submitted to him by the Board under paragraph (1).

(4) A copy of the report shall also be laid before—

- (a) the Scottish Parliament by the Scottish Ministers;
- (b) the Northern Ireland Assembly by the Department of Health, Social Services and Public Safety in Northern Ireland,

and the National Assembly for Wales shall publish the report.

Review of the Board's exercise of its functions

28.—(1) The Secretary of State shall ensure that a full review of the Board's exercise of its functions under this Order is carried out once in every five year period.

(1) 9 and 10 Geo 6 c. 36; as amended by the Government of Wales Act 1998 (c. 38).

(2) A review under paragraph (1) shall be undertaken by a body appointed by the Secretary of State for that purpose.

(3) A body appointed under paragraph (2) shall produce a written report on its review of the Board's exercise of its functions.

(4) The first review shall take place within five years of the date of this article coming into force and thereafter a review shall take place once in every five year period following on from when the last review was carried out.

(5) The Secretary of State shall lay before each House of Parliament a copy of every report produced under paragraph (3).

(6) A copy of the report shall also be laid before—

(a) the Scottish Parliament by the Scottish Ministers;

(b) the Northern Ireland Assembly by the Department of Health, Social Services and Public Safety in Northern Ireland,

and the National Assembly for Wales shall publish the report.

Accounts of the Board

29.—(1) The Board shall—

(a) keep accounts in such form as the Secretary of State may determine; and

(b) prepare annual accounts in respect of each financial year, in such form as the Secretary of State may determine.

(2) The annual accounts shall be audited by persons whom the Board appoints.

(3) No person may be appointed as an auditor under paragraph (2) unless he is eligible for appointment as a company auditor under section 25 of the Companies Act 1989⁽²⁾ (eligibility for appointment) or Article 28 of the Companies (Northern Ireland) Order 1990⁽³⁾ (eligibility for appointment).

(4) As soon as is reasonably practicable after the end of the financial year to which the annual accounts relate, the Board shall—

(a) cause them to be published together with any report on them made by the auditors; and

(b) send a copy of the annual accounts and of any such report to—

(i) the Secretary of State,

(ii) the Comptroller and Auditor General,

(iii) the Scottish Ministers,

(iv) the Department for Health, Social Services and Public Safety in Northern Ireland,
and

(v) the National Assembly for Wales.

(5) The Comptroller and Auditor General shall examine, certify and report on the annual accounts.

(6) For the purposes of his examination, the Comptroller and Auditor General may inspect the accounts of the Board and any records relating to them.

(7) The Secretary of State shall lay before each House of Parliament a copy of the annual accounts certified by the Comptroller and Auditor General, any report of the auditors and the report of the Comptroller and Auditor General prepared under paragraph (5).

(2) 1989 c. 40.

(3) S.I. 1990/593 (N.I. 5).

(8) A copy of the annual accounts (and the reports mentioned in paragraph (7)) shall be laid before—

- (a) the Scottish Parliament by the Scottish Ministers;
- (b) the Northern Ireland Assembly by the Department of Health, Social Services and Public Safety in Northern Ireland,

and the National Assembly for Wales shall publish the accounts (and the aforementioned reports).

(9) In this article, “financial year” means—

- (a) the period beginning with the date on which the Board is established and ending with the next 31st March following that date; and
- (b) each successive period of 12 months ending with 31st March.

Amendment to the Medical Act and the Medical Act 1983 (Amendment) Order 2002

30.—(1) In the Medical Act—

- (a) in section 40 (Appeals), for sub-paragraph (9) there shall be substituted—

“(9) On an appeal under this section from a Fitness to Practise Panel, the General Council may appear as respondent; and for the purpose of any order as to costs (or, in Scotland, expenses) in relation to any such appeal the Council shall be deemed to be a party thereto, whether they appear on the hearing of the appeal or not.”; and

- (b) in paragraph 11 of Schedule 6 to the Medical Act (transitional and savings provisions), at the end of sub-paragraphs (1) and (2), there shall be added “who holds a licence to practise”.

(2) In Part I of Schedule 1 to the Medical Act 1983 (Amendment) Order 2002(4) (consequential amendments to primary legislation), paragraph 1 shall be omitted.

Extent, transitional, transitory, saving and consequential provisions

31.—(1) Subject to paragraphs (2) and (3), this Order extends to the whole of the United Kingdom.

(2) Subject to paragraph (3), the extent of the amendment or revocation of any enactment in Schedule 9 or Schedule 10 is the same as that of the amended or revoked enactment.

(3) In Schedule 10, paragraph 1(c)(i) shall apply only to England and paragraph 1(c)(ii) shall apply only to Wales.

(4) The transitional, transitory and saving provisions contained in Schedule 8 shall apply.

(5) The consequential amendments and revocations contained in Schedules 9 and 10 shall have effect.

(6) The Secretary of State may by order make such further transitional, transitory or saving provisions as he considers appropriate.