



Medical Act 1983

1983 CHAPTER 54

[^{F1}PART V

FITNESS TO PRACTISE AND MEDICAL ETHICS

Textual Amendments

- F1** Pt. V substituted (1.7.2003 for the substitution of s. 41A(2)(a) and Pt. V heading for specified purposes as notified in the London Gazette dated 1.7.2003, 7.7.2004 for the substitution of s. 35CC(1) as notified in the London Gazette dated 2.7.2004, 1.11.2004 in so far as not already in force except for the substitution of ss. 41(7)(8), 41C, 44(4), 44A(3) as notified in the London Gazette dated 8.10.2004, 16.11.2009 for the insertion of s. 41C as notified in the London Gazette dated 21.8.2009) by [The Medical Act 1983 \(Amendment\) Order 2002 \(S.I. 2002/3135\)](#), art. 1(2)(3), **13** (with Sch. 2)

35 General Council's power to advise on conduct, performance or ethics

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—

- (a) standards of professional conduct;
- (b) standards of professional performance; or
- (c) medical ethics.

35A General Council's power to require disclosure of information

- (1) For the purpose of assisting the General Council or any of their committees [^{F2}or the Registrar] in carrying out functions in respect of a practitioner's fitness to practise [^{F3}, or for the purpose of assisting the Registrar in carrying out functions in respect of identifying any person registered by virtue of section 18A(1)(b).], 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,

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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.

^{F4}(1A) [The Registrar may by notice in writing require a practitioner, within such period as is specified in the notice, to supply such information or produce such documents as the Registrar considers necessary—

- (a) for the purpose of assisting the General Council or any of their committees or the Registrar in carrying out functions in respect of the practitioner’s fitness to practise;
- (b) for the purpose of assisting the Registrar in carrying out functions in respect of identifying whether the practitioner is a person registered by virtue of section 18A(1)(b).]

(2) As soon as is 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 below the relevant date is the date specified by the General Council by rules under paragraph 1 of Schedule 4 of this Act.

(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) [^{F5}or (1A)] above 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.

(5A) In determining for the purposes of subsection (4) above whether a disclosure is not prohibited, by reason of being a disclosure of personal data which is exempt from the non-disclosure provisions of the Data Protection Act 1998 by virtue of section 35(1) of that Act, it shall be assumed that the disclosure is required by this section.

(6) [^{F6}Subsections (1) and (1A) above do not] apply in relation to the supplying of information or the production of a document which a person could not be compelled to supply or produce in civil proceedings before the relevant court (within the meaning of section 40(5) below).

^{F7}(6A) [If a person fails to supply any information or produce any document within 14 days of his being required to do so under subsection (1) above, the General Council may seek an order of the relevant court requiring the information to be supplied or the document to be produced.

(6B) For the purposes of subsection (6A), “the relevant court” means the county court or, in Scotland, the sheriff in whose sheriffdom is situated the address—

- (a) which is shown in the register as the address of the person concerned; or
- (b) which would have been so shown if the person concerned were registered.]

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- [If a person fails to comply with a requirement imposed under subsection (1A), the ^{F8}(6C) Registrar may refer that matter to the MPTS for them to arrange for it to be considered by a Medical Practitioners Tribunal.
- (6D) Where a matter is referred to the MPTS under subsection (6C), the MPTS must arrange for it to be considered by a Medical Practitioners Tribunal.
- (6E) Sub-paragraphs (3D) to (5A) of paragraph 5A of Schedule 4 apply to a matter being considered by a Medical Practitioners Tribunal under subsection (6D) as if it were a matter being considered by the Tribunal under sub-paragraph (3B) of that paragraph; and a reference in this Act to any of sub-paragraphs (3D) to (5A) of that paragraph is to be read as including a reference to that sub-paragraph as so applied.]
- (7) For the purposes of subsection (4), “enactment” includes—
- (a) an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament; and
 - (b) any provision of, or any instrument made under, Northern Ireland legislation.
- (8) For the purposes of this section and section 35B below, a “practitioner” means a [^{F9}fully registered person or a provisionally registered person].

Textual Amendments

- F2** Words in s. 35A(1) inserted (9.7.2008) by [The Health Care and Associated Professions \(Miscellaneous Amendments\) Order 2008 \(S.I. 2008/1774\)](#), art. 1(2)(b), **Sch. 1 para. 14(a)**
- F3** Words in s. 35A(1) inserted (9.7.2008) by [The Health Care and Associated Professions \(Miscellaneous Amendments\) Order 2008 \(S.I. 2008/1774\)](#), art. 1(2)(b), **Sch. 1 para. 14(b)**
- F4** S. 35A(1A) inserted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **15(1)**; S.I. 2015/1952, art. 2(l)
- F5** Words in s. 35A(5) inserted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **15(2)**; S.I. 2015/1952, art. 2(l)
- F6** Words in s. 35A(6) substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **15(3)**; S.I. 2015/1952, art. 2(l)
- F7** S. 35A(6A)(6B) inserted (19.7.2006 for specified purposes, 19.10.2007 in so far as not already in force as notified in the London Gazette dated 20.7.2007) by [The Medical Act 1983 \(Amendment\) and Miscellaneous Amendments Order 2006 \(S.I. 2006/1914\)](#), art. 1(2)(b)(c)(3), **55**
- F8** S. 35A(6C)-(6E) inserted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **15(4)**; S.I. 2015/1952, art. 2(l)
- F9** Words in s. 35A(8) substituted (19.7.2006 for specified purposes, 19.10.2007 in so far as not already in force as notified in the London Gazette dated 20.7.2007) by [The Medical Act 1983 \(Amendment\) and Miscellaneous Amendments Order 2006 \(S.I. 2006/1914\)](#), art. 1(2)(b)(c)(3), **12**

35B Notification and disclosure by the General Council

- (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—

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- (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.
- [The General Council may, if they consider it to be in the public interest to do so, ^{F10}(2) publish, or disclose to any person, information—
- (a) which relates to a particular practitioner’s fitness to practise, whether the matter to which the information relates arose before or after his registration, or arose in the United Kingdom or elsewhere; or
 - (b) of a particular description related to fitness to practise in relation to every practitioner, or to every practitioner of a particular description.
- (3) For the purposes of subsection (2)(b) above, the General Council need not consider whether it is in the public interest to publish or disclose the information in question in relation to each individual practitioner to whom it relates.
- (4) Subject to subsection (5), the General Council shall publish in such manner as they see fit—
- (a) decisions of a [^{F11}Medical Practitioners Tribunal] that relate to a finding that a person’s fitness to practise is impaired (including decisions in respect of a direction relating to such a finding that follow a review of an earlier direction relating to such a finding);
 - (b) decisions of a [^{F11}Medical Practitioners Tribunal] to make an order under section 38(1) or (2) below;
 - (c) decisions of a [^{F11}Medical Practitioners Tribunal] to refuse an application for restoration to the register or to give a direction under section 41(9) below;
 - (d) decisions of an [^{F12}Interim Orders Tribunal] or a [^{F11}Medical Practitioners Tribunal] to make an order under section 41A below (including decisions in respect of orders varying earlier orders under that section);
 - ^{F13}(da) [decisions of a Medical Practitioners Tribunal to make a direction under paragraph 5A(3D) or 5C(4) of Schedule 4 and decisions of a Medical Practitioners Tribunal under section 35D that relate to such a direction;]
 - (e) warnings of a [^{F11}Medical Practitioners Tribunal] regarding a person’s future conduct or performance;
 - (f) warnings of the Investigation Committee regarding a person’s future conduct or performance; and
 - (g) undertakings that have been agreed in accordance with rules made under paragraph 1(2A) [^{F14}or (2C)] of Schedule 4.
- (5) The General Council may withhold from publication under subsection (4) above information concerning the physical or mental health of a person which the General Council consider to be confidential.]

Textual Amendments

F10 S. 35B(2)-(5) substituted for s. 35B(2) (19.7.2006 for specified purposes, 19.10.2007 in so far as not already in force as notified in the London Gazette dated 20.7.2007) by [The Medical Act 1983 \(Amendment\) and Miscellaneous Amendments Order 2006 \(S.I. 2006/1914\)](#), art. 1(2)(b)(c)(3), 56

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- F11** Words in s. 35B(4) substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **4(9)**; S.I. 2015/1952, art. 2(c)
- F12** Words in s. 35B(4) substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **4(11)**; S.I. 2015/1952, art. 2(c)
- F13** S. 35B(4)(da) inserted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **12(3)**; S.I. 2015/1952, art. 2(i)
- F14** Words in s. 35B(4)(g) inserted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **9(2)**; S.I. 2015/1952, art. 2(f)

35C Functions of the Investigation Committee

- (1) This section applies where an allegation is made to the General Council against—
 - F15**(a) a fully registered person; or
 - (b) a person who is provisionally registered,]that his fitness to practise is impaired.
- (2) A person’s fitness to practise shall be regarded as “impaired” for the purposes of this Act by reason only of—
 - (a) misconduct;
 - (b) deficient professional performance;
 - (c) a conviction or caution in the British Islands for a criminal offence, or a conviction elsewhere for an offence which, if committed in England and Wales, would constitute a criminal offence;
 - (d) adverse physical or mental health; or
 - F16**(da) not having the necessary knowledge of English (but see section 2(4));]
 - (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 as a member of that profession is impaired, or a determination by a regulatory body elsewhere to the same effect.
- F17**(3) This section is not prevented from applying because—
 - (a) the allegation is based on a matter that is alleged to have occurred—
 - (i) outside the United Kingdom, or
 - (ii) at a time when the person was not registered; or
 - (b) in relation to a person who is a participant in a revalidation pilot scheme, the allegation is based on information obtained in the course of or otherwise in connection with the person’s revalidation under that scheme.]
- (4) The Investigation Committee shall investigate the allegation and decide whether it should be considered by a **F18**Medical Practitioners Tribunal].
- (5) If the Investigation Committee decide that the allegation ought to be considered by a **F19**Medical Practitioners Tribunal]—
 - (a) they shall give a direction to that effect to the Registrar;

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- (b) the Registrar shall refer the allegation to ^{F20}the MPTS for them to arrange for the allegation to be considered by] a ^{F19}Medical Practitioners Tribunal]; and
- (c) the Registrar shall serve a notification of the Committee’s decision on the person who is the subject of the allegation and the person making the allegation (if any).
- (6) If the Investigation Committee decide that the allegation ought not to be considered by a ^{F21}Medical Practitioners Tribunal], they may give a warning to the person who is the subject of the allegation regarding his future conduct or performance.
- [In deciding whether to give a warning under subsection (6), the Investigation ^{F22}(6A) Committee must have regard to the over-arching objective.]
- (7) If the Investigation Committee decide that the allegation ought not to be considered by a ^{F23}Medical Practitioners Tribunal], but that no warning should be given under subsection (6) above—
- (a) they shall give a direction to that effect to the Registrar; and
- (b) the Registrar shall serve a notification of the Committee’s decision on the person who is the subject of the allegation and the person making the allegation (if any).
- (8) If the Investigation Committee are of the opinion that ^{F24}an Interim Orders Tribunal or a Medical Practitioners Tribunal] should consider making an order for interim suspension or interim conditional registration under section 41A below in relation to the person who is the subject of the allegation—
- (a) they shall give a direction to that effect to the Registrar;
- (b) the Registrar shall refer the matter to ^{F25}the MPTS for them to arrange for]]^{F24}an Interim Orders Tribunal or a Medical Practitioners Tribunal]^{F26}... to decide whether to make such an order; 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).
- (9) In this section—
- “enactment” includes—
- (a) an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament; and
- (b) any provision of, or any instrument made under, Northern Ireland legislation,^{F27} ...
- “regulatory body” means a regulatory body which has the function of authorising persons to practise as a member of a health or social care profession^{F28}; and
- “revalidation pilot scheme” has the meaning given by section 29EA(3) above.]

Textual Amendments

- F15** S. 35C(1)(a)(b) substituted for (19.7.2006 for specified purposes, 19.10.2007 in so far as not already in force as notified in the London Gazette dated 20.7.2007) by [The Medical Act 1983 \(Amendment\) and Miscellaneous Amendments Order 2006 \(S.I. 2006/1914\)](#), art. 1(2)(b)(c)(3), **13**
- F16** S. 35C(2)(da) inserted (29.4.2014) by [The Medical Act 1983 \(Amendment\) \(Knowledge of English\) Order 2014 \(S.I. 2014/1101\)](#), arts. 1(1), **6(2)** (with arts. 11, 12)
- F17** S. 35C(3) substituted (30.4.2010) by [The Medical Profession \(Miscellaneous Amendments\) Order 2008 \(S.I. 2008/3131\)](#), art. 1(4), **Sch. 1 para. 17(2)**; S.I. 2010/1182, art. 2

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- F18** Words in s. 35C(4) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **5(2)**; S.I. 2015/1952, art. 2(d)
- F19** Words in s. 35C(5) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **5(2)**; S.I. 2015/1952, art. 2(d)
- F20** Words in s. 35C(5)(b) inserted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **5(1)**; S.I. 2015/1952, art. 2(d)
- F21** Words in s. 35C(6) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **5(2)**; S.I. 2015/1952, art. 2(d)
- F22** S. 35C(6A) inserted (3.8.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **21(3)** (with art. 1(4)); S.I. 2015/1579, art. 2(l)
- F23** Words in s. 35C(7) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **5(2)**; S.I. 2015/1952, art. 2(d)
- F24** Words in s. 35C(8) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **6(1)(a)**; S.I. 2015/1952, art. 2(d)
- F25** Words in s. 35C(8) inserted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **6(1)(b)**; S.I. 2015/1952, art. 2(d)
- F26** Words in s. 35C(8) omitted (31.12.2015) by virtue of The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **6(1)(c)**; S.I. 2015/1952, art. 2(d)
- F27** Word in s. 35C(9) omitted (30.4.2010) by virtue of The Medical Profession (Miscellaneous Amendments) Order 2008 (S.I. 2008/3131), art. 1(4), **Sch. 1 para. 17(3)(a)**; S.I. 2010/1182, art. 2
- F28** Words in s. 35C(9) inserted (30.4.2010) by The Medical Profession (Miscellaneous Amendments) Order 2008 (S.I. 2008/3131), art. 1(4), **Sch. 1 para. 17(3)(b)**; S.I. 2010/1182, art. 2

35CC Provisions supplementary to section 35C

- (1) Rules under paragraph 1 of Schedule 4 to this Act may make provision for—
- the Registrar; or
 - any other officer of the General Council,
- to exercise the functions of the Investigation Committee under section 35C above, whether generally or in relation to such classes of case as may be specified in the rules.

[The reference in subsection (1) to an officer of the General Council does not
^{F29}(1A) include a reference to the chair of the MPTS or any other officer of the Council to whom functions of the MPTS have been delegated by virtue of paragraph 19F(7) of Schedule 1.]

- (2) Where, by virtue of subsection (1) above, rules provide for the Registrar to exercise the functions of the Investigation Committee under subsections (5), (7) and (8) of section 35C above, those subsections shall apply in relation to him as if paragraph (a) in each of them were omitted.
- (3) Section 35C above also applies in a case where^{F30}, in circumstances other than those specified in section 29C(1)(a) and (b)]—

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- (a) it comes to the attention of the General Council that a person's fitness to practise is called into question by one or more of the matters mentioned in subsection (2) of that section, but
 - (b) no allegation to that effect has been made to the Council against that person, and in such a case section 35C shall apply as if an allegation to that effect had been made to the Council against that person.
- [Rules under paragraph 1 of Schedule 4 may make provision for section 35C(4) to (8) ^{F31}(4) not to apply in relation to an allegation if the Investigation Committee consider the allegation to be vexatious.
- (5) Rules under paragraph 1 of Schedule 4 may make provision for section 35C(4) to (8) not to apply in relation to an allegation if—
 - (a) at the time when the allegation is made, more than five years have elapsed since the most recent events giving rise to the allegation, and
 - (b) the Investigation Committee consider that it would not be in the public interest to investigate the allegation.
 - (6) Rules including provision by virtue of subsection (4) or (5) must provide that, where section 35C(4) to (8) does not apply in relation to an allegation, the Investigation Committee must serve notification of the decision on the person making the allegation (if any).
 - (7) Rules under paragraph 1 of Schedule 4 may make provision as to circumstances in which the Investigation Committee may review a decision made by them of a description specified in the rules that relates to a person's fitness to practise.
 - (8) Where the rules include provision by virtue of any of subsections (4) to (7), the reference in subsection (1) to the functions of the Investigation Committee under section 35C is to be read as including a reference to the functions conferred by such provision.]

Textual Amendments

- F29** S. 35CC(1A) inserted (3.8.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **4(12)**; S.I. 2015/1579, art. 2(c) (with art. 3)
- F30** Words in s. 35CC(3) inserted (3.12.2012 immediately after the commencement of S.I. 2002/3135, art. 10 in so far as it relates to 1983 c. 54, ss. 29A(4)(d), 29C and S.I. 2006/1914, art. 65 (and art. 2 in so far as it relates to art. 65)) by [The Medical Profession \(Miscellaneous Amendments\) Order 2008 \(S.I. 2008/3131\)](#), art. 1(4), **Sch. 1 para. 18**; S.I. 2012/2686, arts. 1(3), 2(a)(v)
- F31** S. 35CC(4)-(8) inserted (3.8.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **22(1)**; S.I. 2015/1579, art. 2(m)

35D [^{F32}Functions of a Medical Practitioners Tribunal]

- (1) Where an allegation against a person is referred under [^{F33}section 35C(5)(b)] above to [^{F34}the MPTS—
 - (a) the MPTS must arrange for the allegation to be considered by a Medical Practitioners Tribunal, and
 - (b) subsections (2) and (3) below shall apply.

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- (2) [^{F35}Where the Medical Practitioners Tribunal] find that the person's fitness to practise is impaired they may, if they think fit—
- (a) except in a health case [^{F36}or language case], direct that the person's name shall be erased from the register;
 - (b) direct 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; or
 - (c) direct 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 [^{F37}the Tribunal] think fit to impose for the protection of members of the public or in his interests.
- (3) Where [^{F38}the Tribunal] find that the person's fitness to practise is not impaired they may nevertheless give him a warning regarding his future conduct or performance.
- (4) Where [^{F39}a Medical Practitioners Tribunal] have given a direction that a person's registration be suspended—
- (a) under subsection (2) above;
 - (b) under subsection (10) or (12) below; or
 - (c) under [^{F40}paragraph 5A(3D) or 5C(4)] of Schedule 4 to this Act, [^{F41}subsections (4A) and (4B) below apply].
- [The Tribunal may direct that the direction is to be reviewed by another Medical
^{F42}(4A) Practitioners Tribunal prior to the expiry of the period of suspension; and, where the Tribunal do so direct, the MPTS must arrange for the direction to be reviewed by another Medical Practitioners Tribunal prior to that expiry.
- (4B) The Registrar may, at any time prior to the expiry of the period of suspension, refer the matter to the MPTS for them to arrange for the direction to be reviewed by a Medical Practitioners Tribunal prior to that expiry; and, where a matter is referred to the MPTS under this subsection, the MPTS must arrange for the direction to be reviewed by a Medical Practitioners Tribunal.]
- (5) [^{F43}On a review arranged under subsection (4A) or (4B)], [^{F44}a Medical Practitioners Tribunal] may, if they think fit—
- (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 [^{F45}or language case][^{F46}or a case of suspension under paragraph 5A(3D) or 5C(4) of Schedule 4], direct that the person's name shall be erased from the register; ^{F47}...
 - (c) direct that the person's registration shall, as from the expiry of the current period of suspension [^{F48}or from such date before that expiry as may be specified in the direction], 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 [^{F44}the Tribunal] think fit to impose for the protection of members of the public or in his interests[^{F49}; or
 - (d) revoke the direction for the remainder of the current period of suspension,] but, subject to subsection (6) below, [^{F44}the Tribunal] shall not extend any period of suspension under this section for more than twelve months at a time.

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- (6) In a health case [^{F50}or language case]^{F51} or a case of suspension under paragraph 5A(3D) or 5C(4) of Schedule 4], [^{F52}a Medical Practitioners Tribunal] may give a direction in relation to a person whose registration has been suspended under this section extending his period of suspension indefinitely where—
- (a) the period of suspension will, on the date on which the direction takes effect, have lasted for 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 [^{F53}a Medical Practitioners Tribunal have] given a direction under subsection (6) above for a person's period of suspension to be extended indefinitely, [^{F54}the Registrar shall refer the matter to the MPTS for them to arrange for a Medical Practitioners Tribunal to] review the direction if—
- ^{F55}(a) the person makes a request to the Registrar for there to be such a review;]
 - (b) at least two years have elapsed since the date on which the direction took effect; and
 - (c) if the direction has previously been reviewed under this subsection, at least two years have elapsed since the date of the previous review.
- (8) [^{F56}Where a matter is referred to the MPTS under subsection (7), the MPTS must arrange for the direction to be reviewed by a Medical Practitioners Tribunal; and on such a review, the Tribunal may]—
- (a) confirm the direction;
 - (b) direct that the suspension be terminated; or
 - (c) direct that the 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 [^{F57}the Tribunal] think fit to impose for the protection of members of the public or in his interests.
- (9) Where—
- (a) a direction that a person's registration be subject to conditions has been given under—
 - (i) subsection (2), (5) or (8) above,
 - (ii) subsection (12) below,
 - (iii) [^{F58}paragraph 5A(3D) or 5C(4)] of Schedule 4 to this Act, or
 - (iv) section 41A below; and
 - ^{F59}(b) the Registrar is of the opinion that that person has failed to comply with any requirement imposed on the person as such a condition,]
- [^{F60}subsection (9A)] below applies.
- [The Registrar may refer the matter to the MPTS for them to arrange for the direction to
- ^{F61}(9A) be reviewed by a Medical Practitioners Tribunal; and, where a matter is referred to the MPTS under this subsection, the MPTS must arrange for the direction to be reviewed by a Medical Practitioners Tribunal.]
- (10) [^{F62}Where, on a review arranged under subsection (9A), the Tribunal judge the person concerned to have failed to comply with a requirement imposed as a condition such as is mentioned in subsection (9)(a),]^{F63} the Tribunal] may, if they think fit—
- (a) except in a health case [^{F64}or language case]^{F65} or a case of suspension under paragraph 5A(3D) or 5C(4) of Schedule 4], direct that the person's name shall be erased from the register; or

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- (b) direct that the person's registration in the register shall be suspended during such period not exceeding twelve months as may be specified in the direction.
- [^{F66}(11) Where, in a case which does not come within subsection (9) above, a direction that a person's registration be subject to conditions has been given under subsection (2), (5) or (8) above or paragraph 5A(3D) or 5C(4) of Schedule 4 to this Act, subsections (11A) and (11B) below apply.
- (11A) The Tribunal may direct that the direction is to be reviewed by another Medical Practitioners Tribunal prior to the expiry of the period for which the conditions apply; and, where the Tribunal do so direct, the MPTS must arrange for the direction to be reviewed by another Medical Practitioners Tribunal prior to that expiry.
- (11B) The Registrar may, at any time prior to the expiry of the period for which the conditions apply, refer the matter to the MPTS for them to arrange for the direction to be reviewed by a Medical Practitioners Tribunal; and, where a matter is referred to the MPTS under this subsection, the MPTS must arrange for the direction to be reviewed by a Medical Practitioners Tribunal.]
- (12) [^{F67}On a review arranged under subsection (11A) or (11B)], [^{F68}a Medical Practitioners Tribunal] may, if they think fit—
- (a) except in a health case [^{F69}or language case][^{F70}or a case of suspension under paragraph 5A(3D) or 5C(4) of Schedule 4], direct that the person's name shall be erased from the register;
 - (b) direct that the person's registration in the Register shall be suspended during such period not exceeding twelve months as may be specified in the direction;
 - (c) 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; or
 - (d) 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, but [^{F68}the Tribunal] shall not extend any period of conditional registration under this section for more than three years at a time.
- [^{F71}(13) Where a Medical Practitioners Tribunal have yet to hold a hearing to consider a case in which they would have the power to give or make a direction, revocation or variation under subsection (5), (6), (8), (10) or (12) above, but the person concerned and the General Council have agreed in writing to the terms of such a direction, revocation or variation—
- (a) the Tribunal, on considering the matter on the papers, or the chair of the Tribunal, on doing so instead of the Tribunal, may give a direction or make a revocation or variation on the agreed terms; or
 - (b) if the Tribunal or chair (as the case may be) acting under paragraph (a) determines that the Tribunal should hold a hearing to consider the matter, the MPTS must arrange for a hearing of the Tribunal for that purpose.
- (14) A direction, revocation or variation given or made under subsection (13)(a) by a Tribunal or the chair of a Tribunal is to be treated for the purposes of this Act as if it had been given or made by the Tribunal under subsection (5), (6), (8), (10) or (12) above (as the case may be).]

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Textual Amendments

- F32** S. 35D title substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **5(3)**; S.I. 2015/1952, art. 2(d)
- F33** Words in s. 35D(1) substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **5(3)(a)**; S.I. 2015/1952, art. 2(d)
- F34** Words in s. 35D(1) substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **5(3)(b)**; S.I. 2015/1952, art. 2(d)
- F35** Words in s. 35D(2) substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **5(4)(a)**; S.I. 2015/1952, art. 2(d)
- F36** Words in s. 35D(2)(a) inserted (29.4.2014) by [The Medical Act 1983 \(Amendment\) \(Knowledge of English\) Order 2014 \(S.I. 2014/1101\)](#), arts. 1(1), **7(2)** (with arts. 11, 12)
- F37** Words in s. 35D(2)(c) substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **5(4)(b)**; S.I. 2015/1952, art. 2(d)
- F38** Words in s. 35D(3) substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **5(5)**; S.I. 2015/1952, art. 2(d)
- F39** Words in s. 35D(4) substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **5(5)**; S.I. 2015/1952, art. 2(d)
- F40** Words in s. 35D(4)(c) substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **12(4)**; S.I. 2015/1952, art. 2(i)
- F41** Words in s. 35D(4) substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **5(6)**; S.I. 2015/1952, art. 2(d)
- F42** S. 35D(4A)(4B) inserted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **5(7)**; S.I. 2015/1952, art. 2(d)
- F43** Words in s. 35D(5) substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **5(8)(a)**; S.I. 2015/1952, art. 2(d)
- F44** Words in s. 35D(5) substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **5(5)**; S.I. 2015/1952, art. 2(d)
- F45** Words in s. 35D(5)(b) inserted (29.4.2014) by [The Medical Act 1983 \(Amendment\) \(Knowledge of English\) Order 2014 \(S.I. 2014/1101\)](#), arts. 1(1), **7(3)** (with arts. 11, 12)
- F46** Words in s. 35D(5)(b) inserted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **12(5)**; S.I. 2015/1952, art. 2(i)
- F47** Word in s. 35D(5) omitted (31.12.2015) by virtue of [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **5(8)(b)**; S.I. 2015/1952, art. 2(d)
- F48** Words in s. 35D(5)(c) inserted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **5(8)(c)**; S.I. 2015/1952, art. 2(d)

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- F49** Words in s. 35D(5)(d) inserted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **5(8)(d)**; S.I. 2015/1952, art. 2(d)
- F50** Words in s. 35D(6) inserted (29.4.2014) by The Medical Act 1983 (Amendment) (Knowledge of English) Order 2014 (S.I. 2014/1101), arts. 1(1), **7(4)** (with arts. 11, 12)
- F51** Words in s. 35D(6) inserted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **12(5)**; S.I. 2015/1952, art. 2(i)
- F52** Words in s. 35D(6) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **5(5)**; S.I. 2015/1952, art. 2(d)
- F53** Words in s. 35D(7) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **5(9)(a)**; S.I. 2015/1952, art. 2(d)
- F54** Words in s. 35D(7) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **5(9)(b)**; S.I. 2015/1952, art. 2(d)
- F55** S. 35D(7)(a) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **5(9)(c)**; S.I. 2015/1952, art. 2(d)
- F56** Words in s. 35D(8) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **5(10)(a)**; S.I. 2015/1952, art. 2(d)
- F57** Words in s. 35D(8)(c) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **5(10)(b)**; S.I. 2015/1952, art. 2(d)
- F58** Words in s. 35D(9)(a)(iii) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **12(4)**; S.I. 2015/1952, art. 2(i)
- F59** S. 35D(9)(b) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **5(11)(a)**; S.I. 2015/1952, art. 2(d)
- F60** Words in s. 35D(9)(b) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **5(11)(b)**; S.I. 2015/1952, art. 2(d)
- F61** S. 35D(9A) inserted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **5(12)**; S.I. 2015/1952, art. 2(d)
- F62** Words in s. 35D(10) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **5(13)**; S.I. 2015/1952, art. 2(d)
- F63** Words in s. 35D(10) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **5(5)**; S.I. 2015/1952, art. 2(d)
- F64** Words in s. 35D(10)(a) inserted (29.4.2014) by The Medical Act 1983 (Amendment) (Knowledge of English) Order 2014 (S.I. 2014/1101), arts. 1(1), **7(5)** (with arts. 11, 12)
- F65** Words in s. 35D(10)(a) inserted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **12(5)**; S.I. 2015/1952, art. 2(i)
- F66** S. 35D(11)-(11B) substituted for s. 35D(11) (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **5(14)**; S.I. 2015/1952, art. 2(d)

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- F67** Words in s. 35D(12) substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **5(15)**; S.I. 2015/1952, art. 2(d)
- F68** Words in s. 35D(12) substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **5(5)**; S.I. 2015/1952, art. 2(d)
- F69** Words in s. 35D(12)(a) inserted (29.4.2014) by [The Medical Act 1983 \(Amendment\) \(Knowledge of English\) Order 2014 \(S.I. 2014/1101\)](#), arts. 1(1), **7(6)** (with arts. 11, 12)
- F70** Words in s. 35D(12)(a) inserted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **12(5)**; S.I. 2015/1952, art. 2(i)
- F71** S. 35D(13)(14) inserted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **5(16)**; S.I. 2015/1952, art. 2(d)

35E Provisions supplementary to section 35D

- (1) Where, under section 35D above, [^{F72}a Medical Practitioners Tribunal]—
- (a) give a direction that a person’s name shall be erased from the register;
 - (b) give a direction for suspension;
 - (c) give a direction for conditional registration; or
 - (d) vary any of the conditions imposed by a direction for conditional registration,
- [^{F73}the MPTS] shall forthwith serve on the person concerned notification of the direction or variation and of his right to appeal against it under section 40 below.
- [Where, under section 35D, a Medical Practitioners Tribunal—
- ^{F74}(1A) (a) give a direction or make a variation as mentioned in subsection (1),
- (b) give a direction that a suspension be terminated,
 - (c) revoke a direction for conditional registration or a condition imposed by such a direction, or
 - (d) decide not to give a direction,
- the MPTS shall forthwith serve on the Registrar and the Professional Standards Authority for Health and Social Care notification of the direction, variation, revocation or decision.
- (1B) A notification under subsection (1A) must state whether, in giving the direction or making the variation, revocation or decision, the Tribunal took any undertakings into account in accordance with rules containing provision by virtue of paragraph 1(2C) of Schedule 4.]
- (2) In subsection (1) above—
- (a) references to a direction for suspension include a reference to a direction extending a period of suspension; and
 - (b) references to a direction for conditional registration include a reference to a direction extending a period of conditional registration.
- (3) While a person’s registration in the register is suspended by virtue of a direction under section 35D—
- (a) he shall be treated as not being registered in the register notwithstanding that his name still appears in it, but

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[sections 31A, 35C, 35CC and 35D above, this section and section 39 below
F75(b) shall continue to apply to him.]

[In exercising a function under section 35D, a Medical Practitioners Tribunal must have
F76(3A) regard to the over-arching objective.]

(4) In section 35D above, “health case” means any case in which [F77 a Medical Practitioners Tribunal have] determined that—

- (a) a person’s fitness to practise is impaired by reason of a matter falling within paragraph (d) of subsection (2) of section 35C above, but
- (b) the person’s fitness to practise is not impaired by any matter falling within any other paragraph of that subsection [F78 other than paragraph (da)].

[In section 35D, “language case” means any case in which [F80 a Medical Practitioners
F79(5) Tribunal have] determined that—

- (a) a person’s fitness to practise is impaired by reason of a matter falling within paragraph (da) of subsection (2) of section 35C, but
- (b) that person’s fitness to practise is not impaired by any matter falling within any other paragraph of that subsection other than paragraph (d).]

Textual Amendments

- F72 Words in s. 35E(1) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), 5(17)(a); S.I. 2015/1952, art. 2(d)
- F73 Words in s. 35E(1) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), 5(17)(b); S.I. 2015/1952, art. 2(d)
- F74 S. 35E(1A)(1B) inserted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), 5(18); S.I. 2015/1952, art. 2(d)
- F75 S. 35E(3)(b) substituted (19.7.2006 for specified purposes, 15.9.2006 in so far as not already in force as notified in the London Gazette dated 8.9.2006) by The Medical Act 1983 (Amendment) and Miscellaneous Amendments Order 2006 (S.I. 2006/1914), art. 1(2)(b)(c)(3), 58
- F76 S. 35E(3A) inserted (3.8.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), 21(4) (with art. 1(4)); S.I. 2015/1579, art. 2(l)
- F77 Words in s. 35E(4) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), 5(17)(c); S.I. 2015/1952, art. 2(d)
- F78 Words in s. 35E(4)(b) inserted (29.4.2014) by The Medical Act 1983 (Amendment) (Knowledge of English) Order 2014 (S.I. 2014/1101), arts. 1(1), 8(2) (with arts. 11, 12)
- F79 S. 35E(5) inserted (29.4.2014) by The Medical Act 1983 (Amendment) (Knowledge of English) Order 2014 (S.I. 2014/1101), arts. 1(1), 8(3) (with arts. 11, 12)
- F80 Words in s. 35E(5) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), 5(17)(c); S.I. 2015/1952, art. 2(d)

Modifications etc. (not altering text)

- C1 S. 35E(1) excluded (19.7.2006 for specified purposes, 19.10.2007 in so far as not already in force as notified in the London Gazette dated 20.7.2007) by The Medical Act 1983 (Amendment) and Miscellaneous Amendments Order 2006 (S.I. 2006/1914), arts. 1(2)(b)(c)(3), 84(5)(a)

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36 Professional misconduct and criminal offences.

.....

36A Professional performance.

.....

37 Unfitness to practise through illness, etc.

.....

38 [F81 Power to order immediate suspension etc.]

- (1) On giving a direction for erasure or a direction for suspension under section 35D(2), (10) or (12) above, or under [F82 paragraph 5A(3D) or 5C(4)] of Schedule 4 to this Act, in respect of any person the [F83 Medical Practitioners Tribunal], 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 best interests of that person, may order that his registration in the register shall be suspended forthwith in accordance with this section.
- (2) On giving a direction for conditional registration under section 35D(2) above, or under [F82 paragraph 5A(3D) or 5C(4)] of Schedule 4 to this Act, in respect of any person the [F84 Medical Practitioners Tribunal], 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 best 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—
 - (a) the direction takes effect in accordance with—
 - (i) paragraph 10[F85, 10A or 10B] of Schedule 4 to this Act; F86 ...
 - F86(ii)
 - (b) an appeal against it under section 40 below or [F87 paragraph 5A(5) or 5C(7) of Schedule 4] is (otherwise than by the dismissal of the appeal) determined.
- (4) Where a [F88 Medical Practitioners Tribunal] make an order under subsection (1) or (2) above, [F89 the MPTS] shall forthwith serve a notification of the order on the person to whom it applies.
- (5) If, when an order under subsection (1) or (2) above is made, the person to whom it applies 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) below, 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) above, sections 35C to 35E above shall continue to apply to a person whose registration in the register is suspended.

Status: Point in time view as at 18/11/2016.

Changes to legislation: Medical Act 1983, Part V is up to date with all changes known to be in force on or before 06 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (8) The relevant court may terminate any suspension of a person’s registration in the register 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.

Textual Amendments

- F81** S. 38 title substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **12(6)**; S.I. 2015/1952, art. 2(i)
- F82** Words in s. 38(1)(2) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **12(6)**; S.I. 2015/1952, art. 2(i); S.I. 2015/1952, art. 2(i)
- F83** Words in s. 38(1) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **4(9)**; S.I. 2015/1952, art. 2(c)
- F84** Words in s. 38(2) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **4(9)**; S.I. 2015/1952, art. 2(c)
- F85** Words in s. 38(3)(a)(i) inserted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **12(7)(a)**; S.I. 2015/1952, art. 2(i)
- F86** S. 38(3)(a)(ii) and preceding word omitted (31.12.2015) by virtue of The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **12(7)(b)**; S.I. 2015/1952, art. 2(i)
- F87** Words in s. 38(3)(b) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **12(7)(c)**; S.I. 2015/1952, art. 2(i)
- F88** Words in s. 38(4) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **4(9)**; S.I. 2015/1952, art. 2(c)
- F89** Words in s. 38(4) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **12(8)**; S.I. 2015/1952, art. 2(i)

^{F90}39 **Fraud or error in relation to registration**

[If the Registrar is satisfied that any entry in—

- ^{F91}(1) (a) the register;
(b) the General Practitioner Register; or
(c) the Specialist Register,

has been fraudulently procured or incorrectly made, the Registrar may erase the entry from the appropriate register.]

- (2) Where the Registrar decides to erase a person’s name under this section, the Registrar shall forthwith serve on that person notification of the decision and of his right to appeal against the decision under Schedule 3A to this Act.]

Status: Point in time view as at 18/11/2016.

Changes to legislation: Medical Act 1983, Part V is up to date with all changes known to be in force on or before 06 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

- F90** S. 39 substituted (19.7.2006 for specified purposes, 19.10.2007 in so far as not already in force as notified in the London Gazette dated 20.7.2007) by [The Medical Act 1983 \(Amendment\) and Miscellaneous Amendments Order 2006 \(S.I. 2006/1914\)](#), art. 1(2)(b)(c)(3), **60** (with transitional provisions in [S.I. 2007/2796](#), arts. 1(1), 3)
- F91** S. 39(1) substituted (11.2.2010 for specified purposes, 1.4.2010 in so far as not already in force) by [The General and Specialist Medical Practice \(Education, Training and Qualifications\) Order 2010 \(S.I. 2010/234\)](#), art. 1(3)(4), **Sch. 1 para. 11**; [S.I. 2010/478](#), art. 2(b)

40 [^{F92}Appeals^{F93} ...]

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

- (a) a decision of [^{F94}a Medical Practitioners Tribunal] 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;
- (b) a decision of [^{F94}a Medical Practitioners Tribunal] under section 41(9) below giving a direction that the right to make further applications under that section shall be suspended indefinitely; ^{F95}...

^{F95}(c)

[A decision under regulations made—

- ^{F96}(1A) (a) under section 31 above by virtue of subsection (8) of that section; or
- (b) under section 31A(1)(c) above,

not to restore a person’s name to the register for a reason that relates to his fitness to practise is also an appealable decision for the purposes of this section.]

^{F97}(1B) [A decision of the General Council under regulation 67 of the General Systems Regulations to send an alert about a person is also an appealable decision for the purposes of this section.]

^{F98}(2)

(3) In subsection (1) above—

- (a) references to a direction for suspension include a reference to a direction extending a period of suspension; and
- (b) references to a direction for conditional registration include a reference to a direction extending 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 section 35E(1) above, or section 41(10) ^{F99}... below, appeal against the decision to the relevant court.

^{F100}(4A) [A person in respect of whom an appealable decision falling within subsection (1A) [^{F101}or (1B)] 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, appeal against the decision to the relevant court.]

(5) In [^{F102}subsections (4) and (4A)] above, “the relevant court”—

Status: Point in time view as at 18/11/2016.

Changes to legislation: Medical Act 1983, Part V is up to date with all changes known to be in force on or before 06 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (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 ^{F103} ... , means the High Court of Justice in England and Wales.

^{F104}(6)

(7) On an appeal under this section from [^{F105}a Medical Practitioners Tribunal] , 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 [^{F105}a Medical Practitioners Tribunal]; or
- (d) remit the case to [^{F106}the MPTS for them to arrange for][^{F105}a Medical Practitioners Tribunal] 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.

[Where a case is referred under subsection (7)(d) to the MPTS, the MPTS must arrange ^{F107}(7A) for the case to be disposed of by a Medical Practitioners Tribunal in accordance with the directions of the court.]

(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 [^{F108}or, in the case of an appeal from a decision falling within subsection (1B), direct that the alert be withdrawn or amended]; 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.

(9) [^{F109}On an appeal under this section from the Adjudicator, 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 General Council shall be deemed to be a party thereto, whether they appear on the hearing of the appeal or not.]

Textual Amendments

- F92** S. 40 title substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **16(1)**; S.I. 2015/1952, art. 2(1)
- F93** Words in s. 40 heading omitted (18.11.2016) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), regs. 1, **8(5)** (with reg. 155)
- F94** Words in s. 40(1) substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **16(1)**; S.I. 2015/1952, art. 2(1)

Status: Point in time view as at 18/11/2016.

Changes to legislation: Medical Act 1983, Part V is up to date with all changes known to be in force on or before 06 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- F95** S. 40(1)(c) and preceding word omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **21(a)**
- F96** S. 40(1A) inserted (19.7.2006 for specified purposes, 13.6.2007 in so far as not already in force as notified in the London Gazette dated 18.5.2007) by [The Medical Act 1983 \(Amendment\) and Miscellaneous Amendments Order 2006 \(S.I. 2006/1914\)](#), art. 1(2)(b)(c)(3), **49(a)** (with transitional provisions in [S.I. 2007/2796](#), arts. 1(1), **3**)
- F97** S. 40(1B) inserted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), regs. 1, **8(2)** (with reg. 155)
- F98** S. 40(2) omitted (19.7.2006 for specified purposes, 19.10.2007 in so far as not already in force as notified in the London Gazette dated 20.7.2007) by virtue of [The Medical Act 1983 \(Amendment\) and Miscellaneous Amendments Order 2006 \(S.I. 2006/1914\)](#), arts. 1(2)(b)(c)(3), **61** (with transitional provisions in [S.I. 2007/2796](#), arts. 1(1), **3**)
- F99** Words in s. 40(4) omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **21(b)**
- F100** S. 40(4A) inserted (19.7.2006 for specified purposes, 13.6.2007 in so far as not already in force as notified in the London Gazette dated 18.5.2007) by [The Medical Act 1983 \(Amendment\) and Miscellaneous Amendments Order 2006 \(S.I. 2006/1914\)](#), art. 1(2)(b)(c)(3), **49(b)** (with transitional provisions in [S.I. 2007/2796](#), arts. 1(1), **3**)
- F101** Words in s. 40(4A) inserted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), regs. 1, **8(3)** (with reg. 155)
- F102** Words in s. 40(5) substituted (19.7.2006 for specified purposes, 13.6.2007 in so far as not already in force as notified in the London Gazette dated 18.5.2007) by [The Medical Act 1983 \(Amendment\) and Miscellaneous Amendments Order 2006 \(S.I. 2006/1914\)](#), art. 1(2)(b)(c)(3), **49(c)** (with transitional provisions in [S.I. 2007/2796](#), arts. 1(1), **3**)
- F103** Words in s. 40(5)(c) omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **21(c)**
- F104** S. 40(6) omitted (19.7.2006 for specified purposes, 19.10.2007 in so far as not already in force as notified in the London Gazette dated 20.7.2007) by virtue of [The Medical Act 1983 \(Amendment\) and Miscellaneous Amendments Order 2006 \(S.I. 2006/1914\)](#), arts. 1(2)(b)(c)(3), **61** (with transitional provisions in [S.I. 2007/2796](#), arts. 1(1), **3**)
- F105** Words in s. 40(7) substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **16(2)(a)**; [S.I. 2015/1952](#), art. 2(l)
- F106** Words in s. 40(7)(d) substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **16(2)(b)**; [S.I. 2015/1952](#), art. 2(l)
- F107** S. 40(7A) inserted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **16(3)**; [S.I. 2015/1952](#), art. 2(l)
- F108** Words in s. 40(8)(b) inserted (18.11.2016) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2016 \(S.I. 2016/1030\)](#), regs. 1, **8(4)** (with reg. 155)
- F109** S. 40(9) substituted (11.2.2010 for specified purposes) by [The General and Specialist Medical Practice \(Education, Training and Qualifications\) Order 2010 \(S.I. 2010/234\)](#), art. 1(3)(4), **Sch. 1 para. 12**
- F110** Words in s. 40(9) substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **16(4)**; [S.I. 2015/1952](#), art. 2(l)

I Appeals by General Council

F111 40A.

(1) This section applies to any of the following decisions by a Medical Practitioners Tribunal—

(a) a decision under section 35D giving—

Status: Point in time view as at 18/11/2016.

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- (i) a direction for suspension, including a direction extending a period of suspension;
 - (ii) a direction for conditional registration, including a direction extending a period of conditional registration;
 - (iii) a direction varying any of the conditions imposed by a direction for conditional registration;
 - (b) a decision under paragraph 5A(3D) or 5C(4) of Schedule 4 giving—
 - (i) a direction for suspension;
 - (ii) a direction for conditional registration;
 - (c) a decision under section 35D—
 - (i) giving a direction that a suspension be terminated;
 - (ii) revoking a direction for conditional registration or a condition imposed by such a direction;
 - (d) a decision not to give a direction under section 35D;
 - (e) a decision under section 41 giving a direction that a person’s name be restored to the register;
 - (f) a decision not to give a direction under paragraph 5A(3D) or 5C(4) of Schedule 4.
- (2) A decision to which this section applies is referred to below as a “relevant decision”.
- (3) The General Council may appeal against a relevant decision to the relevant court if they consider that the decision is not sufficient (whether as to a finding or a penalty or both) for the protection of the public.
- (4) Consideration of whether a decision is sufficient for the protection of the public involves consideration of whether it is sufficient—
 - (a) to protect the health, safety and well-being of the public;
 - (b) to maintain public confidence in the medical profession; and
 - (c) to maintain proper professional standards and conduct for members of that profession.
- (5) The General Council may not bring an appeal under this section after the end of the period of 28 days beginning with the day on which notification of the relevant decision was served on the person to whom the decision relates.
- (6) On an appeal under this section, the court may—
 - (a) dismiss the appeal;
 - (b) allow the appeal and quash the relevant decision;
 - (c) substitute for the relevant decision any other decision which could have been made by the Tribunal; or
 - (d) remit the case to the MPTS for them to arrange for a Medical Practitioners Tribunal 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.
- (7) In this section and section 40B, “relevant court” has the meaning given by section 40(5).

Status: Point in time view as at 18/11/2016.

Changes to legislation: Medical Act 1983, Part V is up to date with all changes known to be in force on or before 06 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F111 Ss. 40A, 40B inserted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Overarching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **17(1)**; [S.I. 2015/1952](#), art. 2(1) (with [Sch. para. 2](#))

40B. Appeal under section 40A: role of Professional Standards Authority for Health and Social Care

- (1) If the General Council bring an appeal under section 40A—
 - (a) the Registrar must without delay give notice of the appeal to the Professional Standards Authority for Health and Social Care (“the Authority”); and
 - (b) the Authority may not refer the case to which the appeal relates under section 29 of the National Health Service Reform and Health Care Professions Act 2002 (“the 2002 Act”).
- (2) The Authority may, in spite of subsection (1)(b), become a party to the appeal by giving notice to that effect to the relevant court, the General Council and the person to whom the relevant decision relates; and—
 - (a) the Authority does not require the permission of the relevant court to become a party to the appeal; and
 - (b) accordingly, any provision of rules of court requiring an application for such permission does not apply to the Authority.
- (3) Having become a party to an appeal under section 40A by virtue of subsection (2) of this section, the Authority may make representations or file evidence in the appeal at any time before the end of the hearing of the appeal; but where it does so at a time which would, but for this subsection, have been in breach of a time limit imposed by rules of court, the relevant court may impose such conditions as it thinks fit.
- (4) The matters which the Authority may raise on an appeal under section 40A include any matter which it could have raised on a reference of the case under section 29 of the 2002 Act.
- (5) Where the Authority raises matters on an appeal under section 40A, the General Council and the person to whom the relevant decision relates have the same opportunity to respond as they would have if the Authority had raised the matters on a reference of the case under section 29 of the 2002 Act (and the General Council and person concerned had accordingly been respondents by virtue of subsection (7) of that section).
- (6) If the General Council wish to withdraw an appeal under section 40A or, having agreed the terms of a settlement of the appeal with the person concerned, wish the appeal to be disposed of on those terms, they must give notice of their wish to the Authority (whether or not the Authority is a party to the appeal).
- (7) The Authority, having received a notice under subsection (6), must by notice inform the relevant court, the General Council and the person concerned whether it wishes the proceedings on the appeal to continue.
- (8) Where the Authority gives notice under subsection (7) that it wishes the proceedings to continue, they are to continue but are, from the time when the Authority gives its

Status: Point in time view as at 18/11/2016.

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notice to the relevant court under subsection (7), to be treated as proceedings on a reference made by the Authority to the court under section 29 of the 2002 Act.

- (9) In a case within subsection (8), the Authority must give notice to the relevant court, the General Council and the person concerned specifying the grounds of its case; and the General Council and the person concerned (as respondents to the appeal by virtue of section 29(7) of the 2002 Act) have the opportunity to respond accordingly.
- (10) A requirement in this section to give a notice to a specified person is in addition to such requirements as are imposed by rules of court in relation to the persons to whom notice is to be given; and the giving of notice under this section is subject to such other requirements relating to the giving of notices as are imposed by rules of court.]

Textual Amendments

F111 Ss. 40A, 40B inserted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Overarching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **17(1)**; S.I. 2015/1952, art. 2(1) (with Sch. para. 2)

41 Restoration of names to the register.

- (1) Subject to subsections (2) and (6) below, where the name of a person has been erased from the register under section 35D above, [^{F112}or section 44B(4)(b) below,] a [^{F113}Medical Practitioners Tribunal] may, if they think fit, direct that 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^{F114}...—
 - (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 [^{F115}the MPTS for them to arrange for the application to be determined by] a [^{F116}Medical Practitioners Tribunal].

[Where an application is referred under subsection (3) to the MPTS, they must arrange^{F117}(3A) for the application to be determined by a Medical Practitioners Tribunal.]

- (4) In the case of a person who was provisionally registered under section 15, [^{F118}15A, 21 or 21C] 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, [^{F118}15A, 21 or 21C] 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) above, a [^{F119}Medical Practitioners Tribunal] shall 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.

Status: Point in time view as at 18/11/2016.

Changes to legislation: Medical Act 1983, Part V is up to date with all changes known to be in force on or before 06 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

[Where the applicant is required to submit to or undertake an assessment by virtue of ^{F120}(6A) paragraph 5A or 5C of Schedule 4, a Medical Practitioners Tribunal, before deciding whether to give a direction under subsection (1), shall take into account—

- (a) whether the assessment was carried out,
- (b) whether any requirements imposed in respect of the assessment were complied with, and
- (c) if the assessment was carried out, the results of the assessment.]

(7) A [^{F121}Medical Practitioners Tribunal] shall not give a direction under subsection (1) above unless at the same time in accordance with regulations made by the General Council under this subsection, they direct the Registrar to restore the practitioner's licence to practise.

(8) Subsections (3) to (5) of section 29J above apply to regulations made under subsection (7) above as they apply in relation to regulations made under section 29A above.

[Where a Medical Practitioners Tribunal give a direction under subsection (1), the ^{F122}(8A) MPTS must without delay serve on the Registrar and the Professional Standards Authority for Health and Social Care notification of the direction.]

(9) 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 [^{F123}Medical Practitioners Tribunal] may direct that his right to make any further such applications shall be suspended indefinitely.

(10) Where a [^{F124}Medical Practitioners Tribunal] give a direction under subsection (9) above, [^{F125}the MPTS] 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 above.

(11) Any person in respect of whom a direction has been given under subsection (9) above 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 [^{F126}referred to the MPTS for them to arrange for the direction to be] reviewed by a [^{F127}Medical Practitioners Tribunal] 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.

[In exercising a function under this section, a Medical Practitioners Tribunal must have ^{F128}(12) regard to the over-arching objective.]

Textual Amendments

- F112** Words in s. 41(1) inserted (19.7.2006 for specified purposes, 19.10.2007 in so far as not already in force as notified in the London Gazette dated 20.7.2007) by [The Medical Act 1983 \(Amendment\) and Miscellaneous Amendments Order 2006 \(S.I. 2006/1914\)](#), art. 1(2)(b)(c)(3), **50**
- F113** Words in s. 41(1) substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **19(1)**; S.I. 2015/1952, art. 2(1)
- F114** Words in s. 41(2) omitted (31.12.2015) by virtue of [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **19(2)**; S.I. 2015/1952, art. 2(1)

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- F115** Words in s. 41(3) inserted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **19(3)**; S.I. 2015/1952, art. 2(l)
- F116** Words in s. 41(3) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **19(1)**; S.I. 2015/1952, art. 2(l)
- F117** S. 41(3A) inserted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **19(4)**; S.I. 2015/1952, art. 2(l)
- F118** Words in s. 41(4) substituted (19.7.2006 for specified purposes, 19.10.2007 in so far as not already in force as notified in the London Gazette dated 20.7.2007) by The Medical Act 1983 (Amendment) and Miscellaneous Amendments Order 2006 (S.I. 2006/1914), art. 1(2)(b)(c)(3), **40**
- F119** Words in s. 41(6) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **19(1)**; S.I. 2015/1952, art. 2(l)
- F120** S. 41(6A) inserted (3.8.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **12(9)**; S.I. 2015/1579, art. 2(i) (with art. 3)
- F121** Words in s. 41(7) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **19(1)**; S.I. 2015/1952, art. 2(l)
- F122** S. 41(8A) inserted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **19(5)**; S.I. 2015/1952, art. 2(l)
- F123** Words in s. 41(9) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **19(1)**; S.I. 2015/1952, art. 2(l)
- F124** Words in s. 41(10) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **19(1)**; S.I. 2015/1952, art. 2(l)
- F125** Words in s. 41(10) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **19(6)**; S.I. 2015/1952, art. 2(l)
- F126** Words in s. 41(11) inserted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **19(7)**; S.I. 2015/1952, art. 2(l)
- F127** Words in s. 41(11) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **19(1)**; S.I. 2015/1952, art. 2(l)
- F128** S. 41(12) inserted (3.8.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **21(5)** (with art. 1(4)); S.I. 2015/1579, art. 2(l)

41A Interim Orders

[Where a matter is referred under section 35C(8) to the MPTS, the MPTS must arrange ^{F129}(A1) for an Interim Orders Tribunal or a Medical Practitioners Tribunal to decide whether to make an order as mentioned in that provision.]

- (1) [^{F130}Where an Interim Orders Tribunal or a Medical Practitioners Tribunal in arrangements made under subsection (A1), or a Medical Practitioners Tribunal on their consideration of a matter,] are satisfied that it is necessary for the protection of

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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, [^{F131}the Tribunal] 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 [^{F131}the Tribunal] think fit to impose (an “order for interim conditional registration”).
- (2) Subject to subsection (9) below, where [^{F132}an Interim Orders Tribunal or a Medical Practitioners Tribunal] have made an order under subsection (1) above, [^{F132}an Interim Orders Tribunal or a Medical Practitioners Tribunal]—
- (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—
 - (i) before the end of the period of six months beginning on the date of the decision of the immediately preceding review; or
 - (ii) if after the end of the period of three months beginning on the date of the decision of the immediately preceding review the person concerned requests an earlier review, as soon as practicable after that request; 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), [^{F133}an Interim Orders Tribunal or a Medical Practitioners Tribunal] may, subject to subsection (4) below—
- (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; or
 - (d) 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 interim suspension order with an order for interim conditional registration having effect for the remainder of the term of the former.

[Where an Interim Orders Tribunal or a Medical Practitioners Tribunal have yet to hold ^{F134}(3A) a hearing to consider a case in which they would have the power to make an order under subsection (3) above, but the person concerned and the General Council have already agreed in writing to the terms of such an order—

- (a) the Tribunal, on considering the matter on the papers, or the chair of the Tribunal, on doing so instead of the Tribunal, may make an order on the agreed terms; or
- (b) if the Tribunal or chair (as the case may be) acting under paragraph (a) determines that the Tribunal should hold a hearing to consider the matter, the MPTS must arrange for a hearing of the Tribunal for that purpose.

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- (3B) An order made under subsection (3A)(a) by a Tribunal or the chair of a Tribunal is to be treated for the purposes of this Act as if it had been made by the Tribunal under subsection (3).]
- (4) No order under subsection (1) or (3)(b) to (d) above shall be made by [^{F135}a Tribunal] in respect of any person unless he has been afforded an opportunity of appearing before [^{F136}the Tribunal] and being heard on the question of whether such an order should be made in his case^{F137}
- (5) If an order is made under any provision of this section, [^{F138}the MPTS] 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 [^{F139}an Interim Orders Tribunal or a Medical Practitioners Tribunal] under subsection (1) or (3) above 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) Any reference in this section to an interim suspension order, or to an order for interim conditional registration, includes a reference to such an order as so extended.
- (9) For the purposes of subsection (2) above the first review after the relevant court's extension of an order made by [^{F140}an Interim Orders Tribunal or a Medical Practitioners Tribunal] or after a replacement order made by [^{F140}an Interim Orders Tribunal or a Medical Practitioners Tribunal] under subsection (3)(c) or (d) above 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) below, 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) above, sections [^{F141}31A, 35C to 35E and 39] above shall continue to apply to a person whose registration in the register is suspended.

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(13) This section applies to a provisionally registered person ^{F142}... 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.

Textual Amendments

- F129** S. 41A(A1) inserted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **6(2)**; S.I. 2015/1952, art. 2(d)
- F130** Words in s. 41A(1) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **6(3)(a)**; S.I. 2015/1952, art. 2(d)
- F131** Words in s. 41A(1) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **6(3)(b)**; S.I. 2015/1952, art. 2(d)
- F132** Words in s. 41A(2) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **6(4)**; S.I. 2015/1952, art. 2(d)
- F133** Words in s. 41A(3) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **6(4)**; S.I. 2015/1952, art. 2(d)
- F134** S. 41A(3A)(3B) inserted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **6(5)**; S.I. 2015/1952, art. 2(d)
- F135** Words in s. 41A(4) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **6(6)(a)**; S.I. 2015/1952, art. 2(d)
- F136** Words in s. 41A(4) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **6(6)(b)**; S.I. 2015/1952, art. 2(d)
- F137** Words in s. 41A(4) omitted (31.12.2015) by virtue of The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **6(6)(c)**; S.I. 2015/1952, art. 2(d)
- F138** Words in s. 41A(5) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **6(7)**; S.I. 2015/1952, art. 2(d)
- F139** Words in s. 41A(6) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **6(4)**; S.I. 2015/1952, art. 2(d)
- F140** Words in s. 41A(9) substituted (31.12.2015) by The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015 (S.I. 2015/794), arts. 1(3), **6(4)**; S.I. 2015/1952, art. 2(d)
- F141** Words in s. 41A(12) substituted (19.7.2006 for specified purposes, 15.9.2006 in so far as not already in force as notified in the London Gazette dated 8.9.2006) by The Medical Act 1983 (Amendment) and Miscellaneous Amendments Order 2006 (S.I. 2006/1914), art. 1(2)(b)(c)(3), **59**
- F142** Words in s. 41A(13) omitted (19.7.2006 for specified purposes, 19.10.2007 in so far as not already in force as notified in the London Gazette dated 20.7.2007) by virtue of The Medical Act 1983 (Amendment) and Miscellaneous Amendments Order 2006 (S.I. 2006/1914), arts. 1(2)(b)(c)(3), **14**

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41B Interim orders made by committees other than the Interim Orders Committee

.....

41C Effect of directions or orders on a licence to practise

- (1) Where under this Part ^{F143}...—
- (a) a direction is given that a medical practitioner's name be erased from the register; or
 - (b) an order is made or a direction is given that his registration as a medical practitioner be suspended,
- the practitioner's licence to practise shall be withdrawn with effect from the date when the direction or order has effect.
- (2) Where a medical practitioner's registration has been suspended and—
- (a) that suspension expires without being further extended;
 - (b) the suspension is brought to an end without any direction for erasure or further suspension being made,
- the practitioner's licence to practise shall be restored with effect from the date on which the suspension comes to an end.

Textual Amendments

F143 Words in s. 41C(1) omitted (31.12.2015) by virtue of [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **12(10)**; S.I. 2015/1952, art. 2(i)

42 Preliminary proceedings as to professional misconduct and unfitness to practise.

.....

43 [^{F144}Proceedings before the Investigation Committee, Medical Practitioners Tribunals and Interim Orders Tribunals]

Schedule 4 to this Act (which contains supplementary provisions about proceedings before the Investigation Committee, [^{F145}Medical Practitioners Tribunals and Interim Orders Tribunals]) shall have effect.

Textual Amendments

F144 S. 43 title substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **8(13)**; S.I. 2015/1952, art. 2(e)

F145 Words in s. 43 substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **8(13)**; S.I. 2015/1952, art. 2(e)

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44 **Effect of disqualification in another [F146 relevant European State] on registration in the United Kingdom.**

- (1) A person who is subject to a disqualifying decision in [F147 a relevant European 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)[F148, 14A or 19A] 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 [F149 the relevant European State] in which he was established in medical practice or in which he acquired a [F150 medical 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 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 [F151 (whether on a permanent or temporary basis)] from practising medicine there.
- (3) If a person has been registered by virtue of section 3(1)(b)[F152, 14A or 19A] 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) A decision under—
 - (a) subsection (1) above not to register a person; or
 - (b) subsection (3) above to remove a person's name from the register,
 is an appealable registration decision for the purposes of Schedule 3A to this Act.
- (5) If a person has been registered as a fully registered medical practitioner by virtue of section 3(1)(b)[F153, 14A or 19A] 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 [F154 Medical Practitioners Tribunal] may direct that his registration be suspended for such period, not exceeding the length of the first-mentioned period, as [F155 the Tribunal] think fit, and the period of suspension shall begin on a date to be specified in [F156 the Tribunal's] direction; and
 - (b) sections 35E(1) and (3) and 40 and paragraphs 1, 2, [F157 3,][F158 7,] 8, 9, 10, 12 and 13 of Schedule 4 to this Act shall have effect, with any necessary modifications, in relation to suspension under this subsection.

[In deciding whether to give a direction under subsection (5)(a), a Medical Practitioners
 F159 (5A) Tribunal must have regard to the over-arching objective.]

- (6) Where on or after the date on which a person was registered by virtue of section 3(1)(b)[F160, 14A or 19A] 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, professional performance or physical or mental health had been such as is imputed to him by that decision, as the case may be.

F161 (7)

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Textual Amendments

- F146** Words in s. 44 heading substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **22(a)**
- F147** Words in s. 44(1) substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **22(b)(i)**
- F148** Words in s. 44(1) inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **22(b)(ii)**
- F149** Words in s. 44(2) substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **22(c)(i)**
- F150** Words in s. 44(2) substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **22(c)(ii)**
- F151** Words in s. 44(2)(b) inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **22(c)(iii)**
- F152** Words in s. 44(3) inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **22(d)**
- F153** Words in s. 44(5) inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **22(d)**
- F154** Words in s. 44(5) substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **4(9)**; S.I. 2015/1952, art. 2(c)
- F155** Words in s. 44(5) substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **4(10)(a)**; S.I. 2015/1952, art. 2(c)
- F156** Words in s. 44(5) substituted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **4(10)(b)**; S.I. 2015/1952, art. 2(c)
- F157** Word in s. 44(5)(b) inserted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **8(14)**; S.I. 2015/1952, art. 2(e)
- F158** Word in s. 44(5)(b) inserted (31.12.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **13(6)**; S.I. 2015/1952, art. 2(j)
- F159** S. 44(5A) inserted (3.8.2015) by [The General Medical Council \(Fitness to Practise and Over-arching Objective\) and the Professional Standards Authority for Health and Social Care \(References to Court\) Order 2015 \(S.I. 2015/794\)](#), arts. 1(3), **21(6)** (with art. 1(4)); S.I. 2015/1579, art. 2(l)
- F160** Words in s. 44(6) inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **22(d)**
- F161** S. 44(7) omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **22(e)**

^{F162}44A Effect of disqualification or conviction on registration

Textual Amendments

- F162** S. 44A omitted (19.7.2006 for specified purposes, 19.10.2007 in so far as not already in force as notified in the London Gazette dated 20.7.2007) by virtue of [The Medical Act 1983 \(Amendment\) and Miscellaneous Amendments Order 2006 \(S.I. 2006/1914\)](#), art. 1(2)(b)(c)(3), **51(1)** (for transitional provisions see S.I. 2007/2796, arts. 1(1), 4)

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Provision of information in respect of fitness to practise matters

- F163 44B**
- (1) If a person has been registered by virtue of any provision of this Act ^{F164}, other than Schedule 2A,] and it is subsequently shown to the satisfaction of the Registrar that—
- (a) his fitness to practise was impaired at the time of his registration ^{F165}as a result of serious, specific circumstances or because of a problem] with his physical or mental health; and
 - (b) he had not informed the Registrar of ^{F166}those circumstances or that problem] before his registration,
- the Registrar may erase that person’s name from the register.
- (2) The General Council may by regulations make provision for the information to be provided to the Registrar—
- (a) by or in respect of a person seeking registration by virtue of any provision of this Act, other than ^{F167}Schedule 2A], for the purpose of determining whether his fitness to practise is impaired;
 - (b) by or in respect of a person who is fully registered ^{F168}otherwise than by virtue of Schedule 2A,] or provisionally registered, for the purpose of determining whether his fitness to practise was impaired at the time of his registration ^{F169}as a result of serious, specific circumstances or because of a problem] with his physical or mental health.
- ^{F170}(3) In subsections (1) and (2), “serious, specific circumstances” has the same meaning as in article 56(2) of the Directive (exchange between authorities of information about disciplinary action etc.).]
- (4) The Registrar may—
- (a) refuse to register (even if he is directed by the General Council to do so) any person who fails to comply with, or in respect of whom there is a failure to comply with, regulations made under subsection (2)(a) above;
 - (b) erase from the register the name of any person who fails to comply with, or in respect of whom there is a failure to comply with, regulations made under subsection (2)(b) above.

^{F171}(5)

^{F171}(6)

^{F171}(7)

^{F171}(8)

^{F171}(9)

- (10) Regulations under subsection (2) above shall not have effect until approved by order of the Privy Council.

[Any provision made under subsection (2)(a) has effect subject to section 44BA ^{F172}(11) below.]]

Textual Amendments

F163 S. 44B inserted (19.7.2006 for specified purposes, 19.10.2007 in so far as not already in force as notified in the London Gazette dated 20.7.2007) by [The Medical Act 1983 \(Amendment\) and Miscellaneous Amendments Order 2006 \(S.I. 2006/1914\)](#), art. 1(2)(b)(c)(3), **51(2)**

Status: Point in time view as at 18/11/2016.

Changes to legislation: Medical Act 1983, Part V is up to date with all changes known to be in force on or before 06 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- F164** Words in s. 44B(1) inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **23(a)(i)**
- F165** Words in s. 44B(1)(a) substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **23(a)(ii)**
- F166** Words in s. 44B(1)(b) substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **23(a)(iii)**
- F167** Words in s. 44B(2)(a) substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **23(b)(i)**
- F168** Words in s. 44B(2)(b) inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **23(b)(ii)(aa)**
- F169** Words in s. 44B(2)(b) substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **23(b)(ii)(bb)**
- F170** S. 44B(3) substituted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **23(c)**
- F171** Ss. 44B(5)-(9) omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **23(d)**
- F172** S. 44B(11) inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **23(e)**

F173 44BA Fitness to practise of exempt persons: sufficient evidence

- (1) Subsections (2) to (5) apply in relation to an exempt person (“E”) who applies for registration under section 3(1)(b), 14A or 19A of this Act.
- (2) For the purpose of determining whether E's fitness to practise is impaired, the Registrar shall accept as sufficient evidence of E's good health a certificate which—
 - (a) attests to E's good physical and mental health; and
 - (b) is required of a person who wishes to practise medicine in E's attesting State.
- (3) If no such certificate is required of persons who wish to practise medicine in E's attesting State, for the purpose of determining whether E's fitness to practise is impaired, the Registrar shall accept as sufficient evidence of E's good health a certificate which—
 - (a) attests to E's good physical and mental health; and
 - (b) is issued by a competent authority in E's attesting State.
- (4) For the purpose of determining whether E's fitness to practise is impaired, the Registrar shall accept as sufficient evidence of E's good character a certificate which—
 - (a) attests to E's good character or good repute; and
 - (b) is issued by a competent authority in E's attesting State.
- (5) If no such certificate is issued by a competent authority in E's attesting State, for the purpose of determining whether E's fitness to practise is impaired, the Registrar shall accept as sufficient evidence of E's good character a certificate—
 - (a) attesting to the authenticity of a declaration on oath made by E—
 - (i) before a competent judicial or administrative authority, notary or qualified professional body of E's attesting State, and
 - (ii) attesting to E's good character; and
 - (b) issued by the authority, notary or body referred to in paragraph (a)(i).

In this subsection, “declaration on oath” includes a solemn declaration.
- (6) In subsections (2) to (5) the “attesting State”, in relation to E, is—

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- (a) the relevant European State in which E obtained his medical qualification; or
 - (b) (if different) the relevant European State from which E comes to the United Kingdom.
- (7) The Registrar shall not accept any certificate referred to in subsection (2), (3), (4) or (5) if it is presented more than three months after the date on which it was issued.]

Textual Amendments

F173 S. 44BA inserted (3.12.2007) by [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **24**

[^{F174}44C Indemnity arrangements

- (1) A person who holds a licence to practise as a medical practitioner, and practises as such, must have in force in relation to him an indemnity arrangement which provides appropriate cover for practising as such.
- (2) For the purposes of this section, an “indemnity arrangement” may comprise—
 - (a) a policy of insurance;
 - (b) an arrangement for the purposes of indemnifying a person;
 - (c) a combination of the two.
- (3) For the purposes of this section, “appropriate cover”, in relation to practice as a medical practitioner, means cover against liabilities that may be incurred in practising as such which is appropriate, having regard to the nature and extent of the risks of practising as such.
- (4) The General Council may make regulations in connection with the information to be provided to the Registrar—
 - (a) by or in respect of a person seeking a licence to practise for the purpose of determining whether, if he is granted such a licence, there will be in force in relation to him by the time he begins to practise an indemnity arrangement which provides appropriate cover; and
 - (b) by or in respect of a person who holds a licence to practise for the purpose of determining whether there is in force in relation to him an indemnity arrangement which provides appropriate cover.
- (5) Regulations made under subsection (4)(b) may require the information mentioned there to be provided—
 - (a) at the request of the Registrar; or
 - (b) on such dates or at such intervals as the Registrar may determine, either generally or in relation to individual practitioners or practitioners of a particular description.
- (6) The General Council may also make regulations requiring a person who holds a licence to practise to inform the Registrar if there ceases to be in force in relation to him an indemnity arrangement which provides appropriate cover.
- (7) The General Council may also make regulations requiring a person who holds a licence to practise to inform the Registrar if there is in force in relation to him appropriate cover provided under an indemnity arrangement by an employer.

Status: Point in time view as at 18/11/2016.

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- (8) A licensing authority may refuse to grant a licence to practise to any person who fails to comply, or in respect of whom there is a failure to comply, with regulations made under subsection (4)(a).
- (9) Where a person who holds a licence to practise is in breach of subsection (1) or there is a failure to comply with regulations made under subsection (4)(b) in relation to him—
 - (a) a licensing authority may withdraw that person's licence to practise; or
 - (b) the breach or failure may be treated as misconduct for the purposes of section 35C(2)(a), and the Registrar may accordingly refer the matter to the Investigation Committee under section 35C(4).
- (10) Regulations made under subsection (4), (6) or (7) shall not have effect until approved by the Privy Council.
- (11) This section does not apply to a person who holds a licence to practise as a result of registration under Schedule 2A (visiting medical practitioners from relevant European States).]

Textual Amendments

F174 S. 44C substituted (17.7.2014) by [The Health Care and Associated Professions \(Indemnity Arrangements\) Order 2014 \(S.I. 2014/1887\)](#), art. 1(2), **Sch. 1 para. 1(1)** (with Sch. 3 paras. 2-5)

F175 **44D** **Approved practice settings**

- (1) Unless the Registrar otherwise directs in relation to a particular person, a person who is registered under section 3(1)(a) or 21B above after the coming into force of this section shall, before his first revalidation in accordance with Part 3A above after he is registered, practise medicine in the United Kingdom only in a practice setting—
 - (a) where he is subject to a governance system that includes, but is not limited to, provision for appropriate supervision and appraisal arrangements or assessments; and
 - (b) which is, or which is of a type which is, for the time being recognised by the General Council, either generally or in relation to him or to practitioners of his class, as being acceptable for a practitioner who is newly fully registered.
- (2) Unless the Registrar otherwise directs in relation to a particular person, a person whose name is restored to the register after the coming into force of this section shall, before his first revalidation in accordance with Part 3A above after his name is restored to the register, practise medicine in the United Kingdom only in a practice setting—
 - (a) where he is subject to a governance system that includes, but is not limited to, provision for appropriate supervision and appraisal arrangements or assessments; and
 - (b) which is, or which is of a type which is, for the time being recognised by the General Council, either generally or in relation to him or to practitioners of his class, as being acceptable for a practitioner who is newly restored to the register.
- (3) The General Council may limit their recognition of—
 - (a) a particular practice setting so that it is recognised in relation only to one or more particular practitioners or particular classes of practitioner;

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- (b) a particular type of practice setting so that it is recognised in relation only to one or more particular classes of practitioner.
- (4) The General Council may exclude a particular practice setting from their recognition of a particular type of practice setting—
 - (a) in relation to all practitioners; or
 - (b) in relation to one or more particular classes of practitioner.
- (5) The General Council may at any time vary or withdraw their recognition from a particular practice setting or a particular type of practice setting.
- (6) An example of a valid reason for withdrawing recognition from a particular practice setting, or excluding a particular practice setting from recognition of a particular type of practice setting, is that the relevant governance system operated there is not quality assured by a body that is acceptable to the General Council as a provider of quality assurance.
- (7) If—
 - (a) a person starts practising medicine in a practice setting that is, or is of a type that is, recognised under whichever is appropriate of subsection (1)(b) or (2) (b) above, either generally or in relation to practitioners of his class; and
 - (b) while he is practising medicine there, it ceases to be so recognised,
 it is to be treated as continuing to be recognised in relation to the particular practitioner while he continues to practise medicine there.
- (8) The General Council may by regulations make provision for the information to be provided to the Registrar by or in respect of a fully registered person for the purposes of determining whether or not he is in breach of subsection (1) or (2) above.
- (9) If a fully registered person—
 - (a) is in breach of subsection (1) or (2) above; or
 - (b) fails to comply with regulations made under subsection (8) above, or there is a failure to comply with those regulations in respect of him,
 the breach or failure may be treated as misconduct for the purposes of section 35C(2) (a) above, and the Registrar may refer the matter to the Investigation Committee for investigation by them under section 35C(4) above.
- (10) Regulations under subsection (8) above shall not have effect until approved by order of the Privy Council.
- (11) The General Council may publish guidance for practitioners who—
 - (a) are newly fully registered or whose names are newly restored to the register; but
 - (b) are not subject to the requirements imposed by subsection (1) and (2),
 on what are suitable practice settings for them before their first revalidation in accordance with Part 3A above after being registered or before their names are restored to the register.]]

Textual Amendments

F175 S. 44D inserted (19.7.2006 for specified purposes, 19.10.2007 in so far as not already in force as notified in the London Gazette dated 20.7.2007) by [The Medical Act 1983 \(Amendment\) and Miscellaneous Amendments Order 2006 \(S.I. 2006/1914\)](#), art. 1(2)(b)(c)(3), **70** (with art. 89)

Status: Point in time view as at 18/11/2016.

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Modifications etc. (not altering text)

- C2** S. 44D(1) modified (19.7.2006 for specified purposes, 19.10.2007 in so far as not already in force as notified in the London Gazette dated 20.7.2007) by [The Medical Act 1983 \(Amendment\) and Miscellaneous Amendments Order 2006 \(S.I. 2006/1914\)](#), arts. 1(2)(b)(c)(3), **84(4)(b)**

^{F176}**45 Disciplinary provisions affecting practitioners who render services while visiting the United Kingdom**

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Textual Amendments

- F176** S. 45 omitted (3.12.2007) by virtue of [The European Qualifications \(Health and Social Care Professions\) Regulations 2007 \(S.I. 2007/3101\)](#), regs. 1(2), **25**

Status:

Point in time view as at 18/11/2016.

Changes to legislation:

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