

Status: Point in time view as at 31/12/2020.

Changes to legislation: Medical Act 1983, Paragraph 5C is up to date with all changes known to be in force on or before 28 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)

SCHEDULES

[^{F1}SCHEDULE 4

[^{F1}PROCEEDINGS BEFORE THE INVESTIGATION COMMITTEE, MEDICAL PRACTITIONERS TRIBUNALS AND INTERIM ORDERS TRIBUNALS]

Textual Amendments

- F1** Sch. 4 substituted (7.7.2004 for the substitution of Sch. 4 para. 5A(2) for specified purposes and paras. 1, 5A(1)(3)(3A)(9), 6, 7(3)(4)(6) as notified in the London Gazette dated 2.7.2004, 1.11.2004 in so far as not already in force as notified in the London Gazette dated 8.10.2004) by [The Medical Act 1983 \(Amendment\) Order 2002 \(S.I. 2002/3135\)](#), arts. 1(2)(3), **14** (with Sch. 2 and savings in The Medical Act 1983 (Amendment) Order 2002 (Saving Provision) Order of Council 2004 (S.I. 2004/1731), arts. 1(1), 2)
- F1** Sch. 4 title substituted (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), 7; S.I. 2015/1579, art. 2(d) (with art. 3)

[^{F1}Professional performance assessments and health assessments]

Textual Amendments

- F1** Words in Sch. 4 para. 5A(1)(a) and cross-heading substituted (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), **10(1)(a)**; S.I. 2015/1579, art. 2(g)

Knowledge of English Assessments

- [^{F2}5C. (1) The General Council may make rules—
- (a) authorising the giving of directions by any of—
 - (i) the Investigation Committee,
 - (ii) [^{F3}a Medical Practitioners Tribunal],
 - (iii) such other persons as may be specified in the rules,requiring a registered person [^{F4}or a person seeking restoration to the register] to undertake an assessment of that person's knowledge of English;
 - (b) specifying circumstances in which such an assessment may be undertaken otherwise than in accordance with a direction.

[The reference in sub-paragraph (1) to a person seeking restoration to the register is ^{F5}(1A) a reference to a person applying under section 41, or by virtue of section 31(8) or 31A(1)(c), for the person's name to be restored to the register.]

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- (2) An assessment required to be undertaken by virtue of this paragraph must be undertaken in accordance with rules made by the General Council under this paragraph; and the rules shall, in particular, provide—
- (a) for the procedures to be followed ^{F6}... when directing a ^{F7}... person to undertake such an assessment;
 - (b) for the ^{F7}... person who is required to undertake such an assessment to provide information in respect of that assessment to such persons as may be prescribed under the rules;
 - (c) for the information provided by virtue of paragraph (b) to be disclosed to such persons as may be prescribed under the rules.
- (3) If the Registrar is of the opinion that a [^{F8}registered] person who is required to undertake an assessment of that person's knowledge of English has failed to undertake that assessment or has undertaken the assessment but has failed to provide the information requested in respect of that assessment the Registrar^{F9}...—
- (a) [^{F10}may refer that matter to the MPTS for them to arrange for it to be considered by a Medical Practitioners Tribunal,] and
 - (b) if he does so, shall without delay serve on the person a notification of the making of such a referral.
- [If the Investigation Committee are of the opinion that a registered person who is
- ^{F11}(3A) required to undertake an assessment of that person's knowledge of English has failed to undertake that assessment or has undertaken the assessment but has failed to provide the information requested in respect of that assessment—
- (a) the Investigation Committee may direct the Registrar to refer that matter to the MPTS for them to arrange for it to be considered by a Medical Practitioners Tribunal; and
 - (b) the Registrar, having been given a direction under paragraph (a), must make the referral to the MPTS and must without delay serve on the person concerned a notification of the making of the referral.
- (3B) Where a matter is referred to the MPTS under sub-paragraph (3) or (3A), the MPTS must arrange for the matter to be considered by a Medical Practitioners Tribunal.
- (3C) If a Medical Practitioners Tribunal, having given a direction by virtue of this paragraph to require a person to undertake an assessment of that person's knowledge of English, are of the opinion that the person concerned has failed to undertake that assessment or has undertaken the assessment but has failed to provide the information required in respect of that assessment, the Tribunal must consider that matter.]
- (4) [^{F12}The Medical Practitioners Tribunal, on their consideration of a matter under sub-paragraph (3B) or (3C) may], if they think fit—
- (a) direct that the person's registration in the register shall be suspended (that is to say, shall not have effect) during such period not exceeding 12 months as may be specified in the direction; or
 - (b) direct that the person's registration shall be conditional on the person's compliance, during such period not exceeding 3 years as may be specified in the direction, with such requirements so specified as [^{F13}the Tribunal] think fit to impose for the protection of members of the public or in the person's interests.

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[In deciding whether to give a direction under sub-paragraph (4), a Medical
F14(4A) Practitioners Tribunal must have regard to the over-arching objective.]

(5) Where under sub-paragraph (4), [F15the Medical Practitioners Tribunal] give a
direction for suspension or a direction for conditional registration [F16the MPTS] must
without delay serve on the person concerned notification of the direction and of the
person’s right to appeal against it under sub-paragraph (7).

[Where, under sub-paragraph (4), the Medical Practitioners Tribunal give a direction
F17(5A) for suspension or a direction for conditional registration, or where the Tribunal decide
not to give a direction under that sub-paragraph, the MPTS must without delay serve
on the Registrar and the Professional Standards Authority for Health and Social Care
notification of the direction or decision.]

(6) While a person’s registration in the register is suspended by virtue of a direction
under sub-paragraph (4)—

- (a) the person is to be treated as not being registered in the register
notwithstanding that the person’s name still appears in it, but
- (b) sections 31A, 35C, 35CC, 35D, 35E and 39 are to continue to apply to the
person.

(7) An appeal shall lie to the relevant court (within the meaning of section 40(5) of this
Act) from any direction of [F18a Medical Practitioners Tribunal] given under sub-
paragraph (4) and on an appeal under this paragraph the relevant court may—

- (a) quash the direction,
- (b) substitute for the direction any other direction which [F19the Tribunal] could
have made, or
- (c) remit the case to [F20the MPTS for them to arrange for][F18a Medical
Practitioners Tribunal] to [F21dispose of it] in accordance with the court’s
directions,

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

(8) Subject to paragraph 9, an appeal under sub-paragraph (7) must be brought before
the end of the period of 28 days beginning with the date on which notification of the
direction was served under sub-paragraph (5).

(9) Sub-paragraphs (6) to (9) of paragraph 1 above shall apply in relation to rules made
under this paragraph as they apply in relation to rules under that paragraph.]]

Textual Amendments

- F2** Sch. 4 para. 5C inserted (29.4.2014) by [The Medical Act 1983 \(Amendment\) \(Knowledge of English\) Order 2014 \(S.I. 2014/1101\)](#), arts. 1(1), **9(3)** (with arts. 11, 12)
- F3** Words in Sch. 4 para. 5C(1)(a)(ii) 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), **11(5)(a)**; S.I. 2015/1952, art. 2(h)
- F4** Words in Sch. 4 para. 5C(1)(a) 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), **11(5)(b)**; S.I. 2015/1579, art. 2(h)
- F5** Sch. 4 para. 5C(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), **11(6)**; S.I. 2015/1579, art. 2(h)

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- F6** Words in Sch. 4 para. 5C(2)(a) omitted (3.8.2015) 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), **11(7)(a)**; S.I. 2015/1579, art. 2(h)
- F7** Word in Sch. 4 para. 5C(2)(a)(b) omitted (3.8.2015) 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), **11(7)(b)**; S.I. 2015/1579, art. 2(h)
- F8** Word in Sch. 4 para. 5C(3) 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), **11(8)(a)**; S.I. 2015/1579, art. 2(h)
- F9** Word in Sch. 4 para. 5C(3) 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), **11(8)(b)**; S.I. 2015/1952, art. 2(h)
- F10** Words in Sch. 4 para. 5C(3)(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), **11(8)(c)**; S.I. 2015/1952, art. 2(h)
- F11** Sch. 4 paras. 5C(3A)-(3C) 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), **11(9)**; S.I. 2015/1952, art. 2(h)
- F12** Words in Sch. 4 para. 5C(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), **11(10)(a)**; S.I. 2015/1952, art. 2(h)
- F13** Words in Sch. 4 para. 5C(4)(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), **11(10)(b)**; S.I. 2015/1952, art. 2(h)
- F14** Sch. 4 para. 5C(4A) 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(11)** (with art. 1(4)); S.I. 2015/1579, art. 2(l)
- F15** Words in Sch. 4 para. 5C(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), **11(11)(a)**; S.I. 2015/1952, art. 2(h)
- F16** Words in Sch. 4 para. 5C(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), **11(11)(b)**; S.I. 2015/1952, art. 2(h)
- F17** Sch. 4 para. 5C(5A) 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), **11(12)**; S.I. 2015/1952, art. 2(h)
- F18** Words in Sch. 4 para. 5C(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), **11(13)(a)**; S.I. 2015/1952, art. 2(h)
- F19** Words in Sch. 4 para. 5C(7)(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), **11(13)(b)**; S.I. 2015/1952, art. 2(h)
- F20** Words in Sch. 4 para. 5C(7)(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), **11(13)(c)**; S.I. 2015/1952, art. 2(h)
- F21** Words in Sch. 4 para. 5C(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), **11(13)(d)**; S.I. 2015/1952, art. 2(h)

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