

*Status: Point in time view as at 01/08/2004.*

*Changes to legislation: There are currently no known outstanding effects for the Professions Supplementary to Medicine Act 1960. (See end of Document for details)*

## SCHEDULES

### <sup>F1</sup>FIRST SCHEDULE

#### Textual Amendments

- F1** Act repealed by 1999 c. 8, ss. 60(3), 65, Sch. 5 (the repeal being brought into force as regards Schs. 1, 2 on 1.4.2002 by S.I. 2002/1167, arts. 2, 4, 5)

### PART I

#### CONSTITUTION OF THE COUNCIL

.....

- 1 (1) Subject to the provisions of this Act, the Council shall consist of a total of twenty-one members and shall comprise—
- (a) four persons appointed by the Privy Council and one person appointed by the First Minister and deputy First Minister in Northern Ireland acting jointly, of whom one person appointed by the Privy Council shall be resident in Scotland and another in Wales and of whom none shall be a registered medical practitioner or a member of a profession mentioned in section one of this Act;
  - (b) three persons appointed jointly by the Secretary of State for Health the Secretary of State for Wales the Secretary of State for Scotland and the Minister of Health and Local Government of Northern Ireland, of whom one only shall be a registered medical practitioner and none shall be a member of a profession mentioned as aforesaid;
  - (c) seven persons (in this Schedule referred to as “representative members of the Council”), of whom one shall be appointed by each of the boards established under this Act from among the representative members of that board;
  - (d) three registered medical practitioners, of whom one shall be appointed by each of the English Colleges;
  - (e) two registered medical practitioners appointed jointly by the Scottish Corporations; and
  - (f) one registered medical practitioner appointed by the General Medical Council.
- (2) For each representative member of the Council there shall be an alternate member who shall, subject to the provisions of this Schedule, be appointed from among its representative members by the same board and on the same occasion as the member for whom he is alternate.

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- 2 Each board may appoint two persons to act as additional members of the Council (without the right to vote) at a meeting at which the Council is considering a matter appearing to the Council to be of special interest to registered members of the profession for which the board is established.
- 3 (1) During the initial period as respects a board, the representative member of the Council and his alternate member who, apart from this sub-paragraph, are required to be appointed by the board from among its representative members shall instead be appointed jointly by the Ministers of the Crown mentioned in paragraph (b) above from the members of the relevant profession.
- (2) Before making an appointment under this paragraph as respects any profession the said Ministers shall consult the body or bodies specified as respects that profession in the Second Schedule to the National Health Service (Medical Auxiliaries) Regulations 1954 (which relate to the qualifications of persons for employment under the National Health Service in the professions mentioned in section one of this Act); and a person shall not be eligible for appointment under this paragraph unless—
- (a) he is qualified, in relation to the profession in question, as mentioned in regulation 3 of those regulations or the corresponding provision in force in Scotland; or
  - (b) he is recommended for appointment by the body or one of the bodies specified as aforesaid.

## PART II

### CONSTITUTION OF THE BOARDS

- .....
- 4 (1) Subject to the provisions of this Act, a board shall consist of the total number of members specified as respects that board in the second column of the following table and shall comprise—
- (a) the number of persons so specified in the third column of the table, who shall be members of the relevant profession chosen to represent the members of that profession (and who in this Schedule are referred to as “representative members of the board”);
  - (b) the number of persons so specified in the fourth column of the table, who shall be registered medical practitioners nominated as indicated in that column;
  - (c) one person (as indicated in the fifth column of the table) appearing to the Council, after consultation with the Secretary of State for Education and Employment and the Secretary of State for Scotland, to be specially qualified to advise the board on problems affecting professional education generally; and
  - (d) the number of other persons (if any) specified as respects the board in the sixth column of the table, who shall be persons appearing to the Council to satisfy the relevant requirements of paragraph 7 of this Schedule.

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- (2) For each representative member of a board there shall be an alternate member who shall, subject to paragraph 11 of this Schedule, be elected or appointed on the same occasion as the member for whom he is alternate.
- 5 (1) At least one representative member of a board and his alternate member shall reside and practise the relevant profession in Scotland and at least one other representative member of a board and his alternate member shall reside and practise that profession in Wales:  
Provided that the foregoing requirement as to Scotland shall not apply to the Occupational Therapists Board, but at least two representative members of that board and their alternate members shall reside in Scotland and shall practise and have been trained as occupational therapists there.
- (2) If a matter appearing to a board to be of special interest to registered members of the relevant profession residing and practising that profession in Northern Ireland is to be considered at a meeting of the board and no representative member, or alternate member acting as a member, of the board at the meeting resides and practices as aforesaid, the board shall appoint a registered member of the profession who so resides and practises to act as an additional member of the board (without the right to vote) while the matter in question is being considered.
- (3) Five representative members of the Radiographers Board and their alternate members shall be diagnostic radiographers and the other representative and alternate members of that board shall be radiotherapeutic radiographers.
- 6 Before the English Colleges or the Scottish Corporations nominate a person for appointment as a member of a board in pursuance of paragraph (b) of sub-paragraph (1) of paragraph 4 above, they shall consult such body or bodies (if any) as they consider appropriate in relation to that nomination, being a body or bodies appearing to them to represent medical practitioners specialising in a field with which the board will be concerned.
- 7 (1) Of the four members of the Dietitians Board appointed in pursuance of paragraph (d) of sub-paragraph (1) of paragraph 4 above—  
one shall be a member of the teaching staff of a university department concerned with the teaching of nutrition,  
one shall be a member of the teaching staff of an institution where dietitians are trained,  
one shall be an expert in the subject of nutrition working in the field of human nutrition, and  
the other shall be a biochemist.
- (2) Of the two members of the Occupational Therapists Board appointed in pursuance of the said paragraph (d), one shall be a person engaged in industry or technical education and the other shall be a member of the teaching staff of a university.
- (3) The member of the Physiotherapists Board and the Radiographers Board appointed as aforesaid shall be a physicist.

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- (4) The member of the Remedial Gymnasts Board so appointed shall be an expert in physical education.
- (5) Before making any appointment in pursuance of the said paragraph (d) the Council shall consult such bodies or persons as appear to it to be appropriate in relation to that appointment.
- 8 (1) The members of a board, other than the representative members, shall be appointed by the Council.
- (2) Subject to paragraph 11 of this Schedule, the representative and alternate members of a board taking office after the initial period shall be registered members of the relevant profession elected by the registered members of that profession in accordance with a scheme for that board prepared by the Council in consultation with the board and approved by the Privy Council.
- (3) The representative and alternate members of a board taking office during the initial period shall be appointed by the Council after consultation with the relevant body or bodies mentioned in sub-paragraph (2) of paragraph 3 of this Schedule; and a person shall not be eligible for appointment under this sub-paragraph unless he is qualified or recommended as mentioned in that sub-paragraph:  
 Provided that in exercising its powers under this sub-paragraph the Council shall appoint the representative member of the Council and his alternate member appointed under paragraph 3 of this Schedule by Ministers instead of by the board to be two of the representative members of the board.

### PART III

#### SUPPLEMENTARY PROVISIONS RELATING TO THE COUNCIL AND BOARDS

##### *Incorporation*

- 9 The Council and each board shall be a body corporate with perpetual succession and a common seal.

##### *Tenure of office etc. of members, alternate members and chairmen*

- 10 (1) Subject to the next following sub-paragraph and paragraph 11 of this Schedule, the representative and alternate members of a board taking office after the initial period and the members (other than representative members) of the Council or a board shall hold office for four years and shall then retire.
- (2) The members (other than representative members) of the Council shall retire in rotation in accordance with a scheme made by the Council and approved by the Privy Council, and the members and alternate members of a board (other than representative and alternate members taking office during the initial period) shall retire in rotation in accordance with a scheme made by the board and approved by the Council; and for the purpose of securing retirement by rotation any such scheme

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may provide that during the period of four years from the establishment of the body making the scheme (or as respects the retirement of representative and alternate members of a board, four years from the end of the initial period) some persons shall retire after less than four years in office, so however that a representative member of a board and his alternate member shall retire at the same time.

- (3) Subject to paragraph 11 of this Schedule, the representative and alternate members of the Council appointed by a board shall hold office for one year and shall then retire.
  - (4) Subject as aforesaid, the representative member of the Council and his alternate member appointed under paragraph 3 of this Schedule by Ministers instead of by a board shall hold office until the end of the period which is the initial period for the purposes of that paragraph as respects that board and shall then retire.
  - (5) Subject as aforesaid, the representative and alternate members of a board taking office during the initial period shall hold office until the end of that period and shall then retire.
- 11
- (1) A member or alternate member of the Council or a board may at any time, by notice to the registrar appointed under this Act, resign his office.
  - (2) A member or alternate member of the Council or a board whose name is removed by direction of a disciplinary committee from any register maintained under this Act shall relinquish his office.
  - (3) A representative or alternate member of the Council appointed by a board who ceases to be a representative member of that board shall relinquish his office on the Council.
  - (4) When a member or alternate member of the Council or a board ceases to hold office otherwise than by retirement, his place shall be taken—
    - (a) in the case of a representative member of a board, by his alternate member if then in office and if not by a person appointed or elected in the same manner and satisfying the same requirements of Part II of this Schedule as the representative member;
    - (b) in any other case, by a person appointed or elected in the same manner and satisfying the same requirements of Part I or Part II of this Schedule as the member or alternate member in question:

Provided that a scheme under sub-paragraph (2) of paragraph 8 of this Schedule may provide for the selection, otherwise than by election, of—

- (i) a person to succeed an alternate member of a board who has taken the place of his representative member under paragraph (a) above;
- (ii) persons to succeed a representative member of a board and his alternate member where the representative member ceases to hold office otherwise than by retirement and there is no alternate member to take his place under the said paragraph (a);

and the requirement that an alternate member shall be selected on the same occasion as his representative member shall not apply where an alternate member is selected in pursuance of this sub-paragraph or continues as the alternate member for the successor under this sub-paragraph of a previous representative member of the Council.

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- (5) A person taking office by virtue of sub-paragraph (4) above shall retire when the person whose place he takes would normally have retired.
- 12
- (1) One of the members of the Council appointed by the Privy Council shall be designated by the Privy Council as the chairman of the Council, and a board shall appoint one of its members to be the chairman of the board.
  - (2) The chairman of the Council or a board shall hold office as such until the expiration of the period determined by the body designating or appointing him as chairman or until he ceases to be a member of the Council or board, whichever first occurs, and shall then retire from that office.
  - (3) The chairman, or in his absence the person acting as chairman, of the Council or a board shall have a second or casting vote.
- 13
- An alternate member of the Council or a board may act as a member of the Council or board at any meeting of that body when the representative member for whom he is alternate is absent, but not otherwise.
- 14
- A person retiring from or resigning office as the chairman or a member or alternate member of the Council or a board shall be eligible to hold that office again.
- 15
- The powers of the Council or a board or any committee thereof may be exercised notwithstanding any vacancy in its membership, and no proceedings of such a body shall be invalidated by any defect in the selection of a person to be a member of that body.

*Committees*

.....

*Standing Orders*

- 17
- The Council or a board may make standing orders for regulating the proceedings (including quorum) of the Council or board or any committee thereof, so however that orders under this paragraph shall not be made with respect to the proceedings of a disciplinary committee.

*Expenses and accounts*

.....

- 18
- (1) Any fees payable under this Act in respect of the entry or retention of a name on a register shall be paid to the Council, and any expenses of the Council shall be defrayed out of the sums received by the Council either on account of those fees or otherwise.

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- (2) The Council shall furnish each board with such sums as the board may require for defraying—
    - (a) any remuneration or allowances which the board is authorised by this Act to pay; and
    - (b) any costs which the board is directed to pay on an appeal under section nine of this Act; and
    - (c) any other expenses incurred by the board with the approval of the Council, and each board shall furnish the Council with such evidence as the Council may reasonably require of all payments made by the board out of sums furnished by the Council.
  - (3) The Council shall keep proper accounts of all sums received or paid by it, and proper records in relation to those accounts (including records of the evidence furnished as aforesaid), and its accounts for each financial year of the Council shall be audited by auditors appointed by the Council; and as soon as any accounts of the Council have been audited, the Council shall cause them to be published and shall send a copy of them to the Privy Council together with a copy of any report of the auditors thereon.
  - (4) A person shall not be appointed auditor under this paragraph unless he is eligible for appointment as a company auditor under section 25 of the Companies Act 1989.
- 19           The Council or a board may pay to any of its members or alternate or additional members, or to any member of a committee appointed by it, travelling, subsistence or other allowances at such rates as may be determined by the Council with the consent of the Privy Council.

*Officers and servants*

- 20           (1) The Council (but not the board) shall have power to appoint a registrar and other officers and servants on such terms as to remuneration, pensions or otherwise as the Council may determine; and the Council shall make such arrangements as it thinks appropriate for the services of officers and servants appointed by it to be available to the boards and to any committees of the Council or a board.
- (2) A board shall have power with the approval of the Council to appoint teaching and other staff, on such terms as to remuneration, pensions or otherwise as the board with the approval of the Council may determine, in connection with any course of training or examination conducted under arrangements made by the board.
- (3) .....

*Miscellaneous*

- 21           It shall be the duty of a board to furnish the Council with a copy of the minutes of proceedings of the board and any committee (other than an investigating or disciplinary committee) appointed by the board and of any document considered at a meeting of the board or committee; and it shall be the duty of the Council, at the request of a board, to make available to the board a copy of so much of any minutes of proceedings of the Council or a committee appointed by the Council and

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of so much of any document considered at a meeting of the Council or committee as relates to the board.

22 (1) In this Schedule,—

“the English Colleges” means the Royal College of Physicians of London, the Royal College of Surgeons of England and the Royal College of Obstetricians and Gynaecologists;

“the initial period”, in relation to a board, means the period expiring six months (or for the purposes of paragraph 3 of this Schedule, eight months) after such date as the Council may by order determine to be that on which the board’s register is established;

“representative member” has the meaning assigned to it, in relation to the Council, by paragraph (c) of sub-paragraph (1) of paragraph 1 of this Schedule, and in relation to a board, by paragraph (a) of sub-paragraph (1) of paragraph 4 of this Schedule;

“the Scottish Corporations” means the Royal College of Physicians of Edinburgh, the Royal College of Surgeons of Edinburgh and the Royal Faculty of Physicians and Surgeons of Glasgow.

(2) Any power to make a scheme conferred by a provision of this Schedule shall include power to vary or revoke the scheme by a subsequent scheme under that provision.

## <sup>F9</sup>SECOND SCHEDULE

### Textual Amendments

**F9** Act repealed by 1999 c. 8, ss. 60(3), 65, Sch. 5 (the repeal being brought into force as regards Schs. 1, 2 on 1.4.2002 by S.I. 2002/1167, arts. 2, 4, 5)

## PART I

### CONSTITUTION OF THE COMMITTEES

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## PART II

### PROCEDURE OF DISCIPLINARY COMMITTEES

2 (1) For the purposes of any proceedings before a disciplinary committee in England or Wales or Northern Ireland the committee may administer oaths and any party to the proceedings may sue out writs of subpoena ad testificandum and duces tecum, but no person shall be compelled under any such writ to produce any document which he could not be compelled to produce on the trial of an action.



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- (2) The provisions of section 36 of the Supreme Court Act 1981, of section 67 of the Judicature (Northern Ireland) Act 1978 or of the Attendance of Witnesses Act 1854 (which provide special procedures for the issue of such writs so as to be in force throughout the United Kingdom) shall apply in relation to any proceedings before a disciplinary committee in England or Wales or, as the case may be, in Northern Ireland as those provisions apply in relation to causes or matters in the High Court or actions or suits pending in the High Court of Justice in Northern Ireland.
- (3) For the purpose of any proceedings before a disciplinary committee in Scotland, the committee may administer oaths and the Court of Session shall on the application of any party to the proceedings have the like power as in any action in that court to grant warrant for the citation of witnesses and havers to give evidence or to produce documents before the committee, and for the issue of letters of second diligence against any witness or haver failing to appear after due citation, to grant warrant for the recovery of documents, and to grant commissions to persons to take the evidence of witnesses or to examine havers and receive their exhibits and productions.
- 3 (1) Subject to the next following sub-paragraph, the Council shall make rules as to the procedure to be followed and the rules of evidence to be observed in proceedings before disciplinary committees, and in particular—
- (a) for securing that notice that the proceedings are to be brought shall be given, at such time and in such manner as may be specified by the rules, to the person alleged to be liable to have his name removed from the register;
  - (b) for determining who, in addition to the person aforesaid, shall be a party to the proceedings;
  - (c) for securing that any party to the proceedings shall, if he so requires, be entitled to be heard by the committee;
  - (d) for enabling any party to the proceedings to be represented by counsel or solicitor or (if the rules so provide and the party so elects) by a person of such other description as may be specified by the rules;
  - (e) for requiring proceedings before the committee to be held in public except so far as may be provided by the rules;
  - (f) for requiring, in cases where it is alleged that a person is guilty of infamous conduct in any professional respect, that where the committee judges that the allegation has not been proved it shall record a finding that the person is not guilty of such conduct in respect of the matters to which the allegation relates.
- (2) As respects proceedings for the registration of a person whose name was previously removed from a register by direction of a disciplinary committee, the Council shall have power to make rules with respect to all or any of the matters mentioned in the foregoing sub-paragraph, but shall not be required to do so; and separate rules under this paragraph may be made as respects such proceedings.
- (3) Before making rules under this paragraph the Council shall consult the boards for the time being established under this Act, and before entering into consultations with the Council under this sub-paragraph a board shall consult such bodies representing members of the relevant profession as the board thinks fit.
- (4) Rules under this paragraph shall not come into force until confirmed by order of the Privy Council.

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- 4 (1) For the purpose of advising a disciplinary committee on questions of law arising in proceedings before it, there shall in all such proceedings be an assessor to the committee who shall be
- (a) a person who has a 10 year general qualification, within the meaning of section 71 of the Courts and Legal Services Act 1990;
  - (b) an advocate or solicitor in Scotland of at least 10 years' standing; or
  - (c) a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 10 years' standing.
- (2) The power of appointing an assessor for a disciplinary committee shall be exercisable by the Council after consultation with the board concerned, but if no assessor appointed by the Council is available to act in any particular proceedings the committee may itself appoint an assessor qualified as aforesaid for those proceedings.
- (3) The Lord Chancellor may, by statutory instrument, make rules as to the functions of assessors appointed under this paragraph, and in particular such rules may contain provision for securing—
- (a) that where an assessor advises a disciplinary committee on any question of law as to evidence, procedure or any other matters specified by the rules, he shall do so in the presence of every party or person representing a party to the proceedings who appears thereat or, if the advice is tendered while the committee is deliberating in private, that every such party or person as aforesaid shall be informed what advice the assessor has tendered;
  - (b) that every such party or person as aforesaid shall be informed if in any case the committee does not accept the advice of the assessor on such a question as aforesaid,
- and may contain such incidental and supplementary provisions as the Lord Chancellor considers expedient.
- (4) Except in the case of an assessor appointed by the committee itself under subparagraph (2) above, an assessor may be appointed under this paragraph either generally or for any particular proceedings or class of proceedings, and shall hold and vacate office in accordance with the terms of the instrument under which he is appointed.
- (5) The relevant board may pay to an assessor appointed under this paragraph remuneration at such rates as may be determined by the Council with the consent of the Lord Chancellor.

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