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STATUTORY INSTRUMENTS

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**2002 No. 3135**

**The Medical Act 1983 (Amendment) Order 2002**

**PART IV**

**REGISTRATION**

**Registration appeals**

**8.**—(1) After section 34A insert—

**“Registration appeals**

**34B.** Schedule 3A to this Act (which makes provision about appeals against registration decisions) shall have effect.”.

(2) After Schedule 3 insert—

“SCHEDULE 3A

Section 34B

**REGISTRATION APPEALS**

**Interpretation**

**1.** In this Schedule—

“appealable registration decision” shall be construed in accordance with paragraph 2 below;

“person concerned” means the person in respect of whom an appealable registration decision is made or, as the case may be, an applicant to whom paragraph 3(2) below applies;

“person making the decision” means—

- (a) in relation to a decision on an application made under paragraph 2 of Schedule 3 to this Act, the appropriate registrar as defined in sub-paragraph (3) of that paragraph;
- (b) in relation to a decision under section 18, 44 or 44A of this Act, the Registrar; and
- (c) in any other case, the General Council; and

“the requisite period” has the meaning given by paragraph 5(1A) of Schedule 3 to this Act.

**Appealable registration decisions**

**2.**—(1) The following decisions are appealable registration decisions for the purposes of this Schedule—

- (a) a decision on an application made under Schedule 3 to this Act not to register the applicant under section 3 of this Act as a fully registered medical practitioner (registration by virtue of primary United Kingdom or primary European qualifications);
- (b) a decision on an application made under Schedule 3 to this Act not to register the applicant provisionally under section 15 of this Act (provisional registration);

- (c) a decision on an application made under Schedule 3 to this Act not to register the applicant provisionally under section 15A of this Act (provisional registration for EEA nationals);
  - (d) a decision on an application made under Schedule 3 to this Act not to register a qualification under section 16(1) of this Act (registration of qualifications);
  - (e) a decision that a person shall not, or shall no longer, be registered under section 18 of this Act (visiting EEC practitioners);
  - (f) a decision not to direct that a person shall be registered under section 19(1) of this Act (full registration of EEA nationals etc. by virtue of overseas primary qualifications etc.);
  - (g) a decision not to direct that a person shall be registered provisionally under section 21(2) of this Act (provisional registration);
  - (h) a decision not to direct that a person shall be registered under section 21A(1) of this Act (full registration for eligible specialists and qualified general practitioners) as a fully registered medical practitioner;
  - (i) a decision under section 22 of this Act (limited registration of persons by virtue of overseas qualifications)—
    - (i) not to direct that a person shall be registered, or registered for a further period, as a medical practitioner with limited registration, or
    - (ii) defining the limits of a person's registration;
  - (j) a decision under section 24(2) of this Act giving a direction for erasure;
  - (k) a decision not to direct under section 25 of this Act (full registration of persons with limited registration) that a person be registered as a fully registered medical practitioner;
  - (l) a decision not to register a qualification under section 26(1) or (2) of this Act (registration of qualifications);
  - (m) a decision under section 27 of this Act (temporary full registration for visiting overseas specialists)—
    - (i) not to direct that a person be registered temporarily as a fully registered medical practitioner, or
    - (ii) giving a direction that such registration shall be for a period of less than twelve months;
  - (n) a decision under section 44 of this Act (effect of disqualification in another member State on registration in the United Kingdom)—
    - (i) under subsection (1) or (7), not to register a person, or
    - (ii) under subsection (3), to remove a person's name from the register;
  - (o) a decision under section 44A of this Act (effect of disqualification or conviction on registration)—
    - (i) under subsection (1), not to register a person, or
    - (ii) under subsection (2), to remove a person's name from the register.
- (2) But a decision is not an appealable registration decision for the purposes of this Schedule if it is a decision to refuse registration to a person, or to erase a person's name from the register, by reason only that the person failed to—
- (a) pay the prescribed fee for registration;
  - (b) make an application as required under this Act; or
  - (c) produce a certificate obtained under section 10 of this Act.

### **Notice of appealable registration decisions**

3.—(1) Where an appealable registration decision is made, the person making the decision shall give the person concerned notice of—

- (a) the decision;
- (b) the reasons for the decision; and
- (c) the person's right to appeal under paragraph 4 below.

(2) Failure to notify an applicant of a decision made in respect of an application for registration under section 3, 19, 21A or 22 of this Act within the requisite period shall be treated as a decision from which the applicant may appeal under paragraph 4 below.

### **Appeals from appealable registration decisions**

4.—(1) A person in respect of whom an appealable registration decision has been made may appeal against the decision to a Registration Appeals Panel.

(2) An appeal under sub-paragraph (1) above shall be made by giving notice of appeal to the Registrar.

(3) Any such notice of appeal must be given before the end of the period of 28 days beginning with the date on which notice of the decision was given under paragraph 3(1) above.

This sub-paragraph is subject to any extension of time under paragraph 7 below.

(4) In the case of an appeal by virtue of paragraph 3(2) above, notice of appeal must be given before the end of the period of 28 days following the end of the requisite period.

(5) Where a decision to erase or remove a medical practitioner from the register is an appealable registration decision, the decision shall not be carried into effect—

- (a) until the time for bringing any appeal against the decision has expired without an appeal being brought; or
- (b) where an appeal is brought, until the date on which the appeal is finally disposed of or abandoned or fails by reason of its non-prosecution.

(6) Any rules made under paragraph 3 of Schedule 3B to this Act shall apply in relation to an appeal under this Schedule as they apply in relation to an appeal under section 29F of this Act.

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

(8) In disposing of an appeal under this paragraph, a Registration Appeals Panel may determine to—

- (a) dismiss the appeal;
- (b) allow the appeal and quash the decision appealed against;
- (c) substitute for the decision appealed against any other decision which could have been made by the person making the decision;
- (d) remit the case to the person making the decision to dispose of in accordance with the directions of the Registration Appeals Panel,

and a Panel may make such order as to costs (or, in Scotland, expenses) as they think fit.

(9) A Registration Appeals Panel shall, as soon as reasonably practicable—

- (a) give the person concerned, and the person making the decision, notice of the Panel's determination on an appeal under sub-paragraph (1) above and of the reasons for that determination; and

- (b) if that determination is not a determination under sub-paragraph (8)(b) above, give the person concerned notice of his right of appeal under paragraph 5 below.

### **Appeals from a Registration Appeals Panel**

#### **5.—(1) Where—**

- (a) a Registration Appeals Panel determines an appeal under paragraph 4 above; and
- (b) the Panel’s determination is any determination other than a determination under paragraph 4(8)(b) above to allow the appeal and quash the decision appealed against,

the person concerned may, before the end of the period of 28 days beginning with the date on which notice of the determination was given to him under paragraph 4(9), appeal against the determination to the relevant court.

- (2) In this paragraph, “the relevant court” means the county court or, in Scotland, the sheriff.

(3) In sub-paragraph (2) above, “the sheriff” means 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.

(4) On an appeal under this paragraph from a Registration Appeals Panel, the relevant court may—

- (a) dismiss the appeal;
- (b) allow the appeal and quash the determination appealed against;
- (c) substitute for the determination appealed against any other determination which could have been made by the Registration Appeals Panel;
- (d) remit the case to the Registrar for him to refer it to a Registration Appeals Panel to dispose of the case in accordance with the directions of the relevant court,

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

### **Notices**

**6.—(1)** Any notice required to be given under paragraph 3 or 4(9) above to the person concerned may be given—

- (a) by delivering it to him;
- (b) by leaving it at his proper address;
- (c) by sending it by a registered post service; or
- (d) by sending it by a postal service which provides for the delivery of the notice by post to be recorded.

(2) For the purposes of this paragraph and of section 7 of the Interpretation Act 1978 in its application to this paragraph, the proper address of the person concerned shall be—

- (a) the address—
  - (i) which is shown in the register as his address, or
  - (ii) which would have been so shown if he were registered; or
- (b) if the conditions in sub-paragraph (3) below are satisfied, his last known address.

(3) The conditions are that—

- (a) the last known address of the person concerned differs from the address mentioned in sub-paragraph (2)(a) above; and

- (b) it appears to the body or person giving the notice that a letter sent to the person concerned at his last known address is more likely to reach him.
- (4) For the purposes of this paragraph—
  - (a) the giving of a notice effected by sending it by post shall be deemed to have been effected at the time when the letter containing it would be delivered in the ordinary course of post; and
  - (b) so much of section 7 of the Interpretation Act 1978 as relates to the time when service is deemed to have been effected shall not apply to a notice sent by post.

#### **Extension of time for appealing**

- 7. Where—
  - (a) any notice required by paragraph 3(1) above to be given to the person concerned is given by sending it to him by post; and
  - (b) the Registrar is satisfied, on the application of that person, that he did not receive the notice within the period of 14 days beginning with the day on which the person making the decision gave the decision to which the notice relates, the Registrar may, if he thinks fit, by authorisation in writing extend the time for giving notice of appeal under paragraph 4(2) above.”.