
STATUTORY INSTRUMENTS

2003 No. 1250

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

PART 1

GENERAL

Citation and commencement

1.—(1) This Order may be cited as the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003.

(2) This article and article 31(1) and (6) shall come into force on the day after this Order is made and the other provisions of this Order shall come into force on such days as the Secretary of State may specify.

(3) Different days may be specified under paragraph (2) for different purposes and any day so specified shall be caused to be notified in the London, Edinburgh and Belfast Gazettes published not later than one week before that date⁽¹⁾.

Interpretation

2. This Order is to be interpreted in accordance with Schedule 1.

PART 2

THE BOARD AND ITS COMMITTEES

The Postgraduate Medical Education and Training Board and its committees

3.—(1) There shall be a body corporate to be known as the Postgraduate Medical Education and Training Board (referred to in this Order as “the Board”).

(2) The principal functions of the Board shall be—

- (a) to establish standards of, and requirements relating to, postgraduate medical education and training;
- (b) to secure the maintenance of the standards and requirements established under sub-paragraph (a); and
- (c) to develop and promote postgraduate medical education and training in the United Kingdom.

(3) The Board shall have such other functions as are conferred on it by or under this Order.

(1) A table of provisions that have come into force is available from the Department of Health, Room 2N35a, Quarry House, Quarry Hill, Leeds, West Yorkshire LS2 7UE.

- (4) The main objectives of the Board in exercising its functions shall be—
 - (a) to safeguard the health and well-being of persons using or needing the services of general practitioners or specialists;
 - (b) to ensure that the needs of persons undertaking postgraduate medical education and training in each of the countries of the United Kingdom are met by the standards it establishes under paragraph (2)(a) and to have proper regard to the differing considerations applying to the different groups of persons to whom this Order applies; and
 - (c) to ensure that the needs of employers and those engaging the services of general practitioners and specialists within the National Health Service are met by the standards it establishes under paragraph (2)(a).
- (5) In exercising its functions, the Board shall co-operate wherever reasonably practicable with—
 - (a) the GMC;
 - (b) any body that appears to it to be representative of the medical Royal Colleges in the United Kingdom; and
 - (c) such other bodies as the Secretary of State may specify by order.
- (6) Part 1 of Schedule 2 shall have effect with respect to the constitution of the Board.
- (7) There shall be two committees of the Board, to be known as—
 - (a) the Training Committee; and
 - (b) the Assessment Committee.
- (8) These two committees, and any committee created under paragraph (11)(a), are referred to in this Order as “the statutory committees”.
- (9) Each statutory committee shall have the functions conferred on it by or under this Order.
- (10) Part 2 of Schedule 2 shall have effect with respect to the statutory committees.
- (11) On a proposal from the Board or otherwise, the Secretary of State may by order—
 - (a) create a new statutory committee and confer functions on it; or
 - (b) vary the functions of the statutory committees.
- (12) The functions of the Board under or by virtue of this Order are without prejudice to the functions of the GMC or any of its statutory committees under the Medical Act.

PART 3

EDUCATION AND TRAINING

Education and training leading to the award of a Certificate of Completion of Training

4.—(1) Subject to paragraph (2), the Board shall from time to time establish the standards and requirements relating to postgraduate medical education and training necessary for the award of a CCT in general practice and in each of the specialties listed in Schedule 3.

(2) Standards and requirements established by the Board under paragraph (1) must comply with the minimum requirements for general practice and specialist training, set out in articles 5 and 6 respectively, but nothing in this Order shall prevent the Board from establishing additional requirements or higher standards under this article as it considers appropriate.

(3) The standards and requirements established under paragraph (1) shall be set out in rules.

(4) The standards and requirements established under paragraph (1) shall include—

- (a) the standards required for entry to training;

- (b) the education and training curriculum to be followed for general practice and for each specialty listed in Schedule 3;
 - (c) the outcomes to be achieved by that education and training, including the level of skill, knowledge and expertise required; and
 - (d) the methods of assessment of progress during and upon completion of that education and training.
- (5) In performing the function mentioned in article 3(2)(b), the Board may approve—
- (a) a course of postgraduate medical education and training (or part of such a course) which the Board is satisfied meets or would meet the standards and requirements established under paragraph (1);
 - (b) a programme of postgraduate medical education and training (or part of such a programme) which the Board is satisfied meets or would meet the standards and requirements established under paragraph (1);
 - (c) a training post which the Board is satisfied meets or would meet the standards and requirements established under paragraph (1);
 - (d) a general practitioner, whom the Board considers to be properly organised and equipped for providing the training specified in article 5(1)(c)(i);
 - (e) examinations, assessments or other tests of competence.
- (6) In connection with paragraph (5), the Board may approve postgraduate medical education and training taking place outside the United Kingdom.
- (7) In exercising its functions under paragraph (5), the Board may attach conditions to any approval it gives or has given including, if the Board considers appropriate, a period of time for which that approval is valid.
- (8) The Board may at any time withdraw approval where it is satisfied that—
- (a) any conditions imposed under paragraph (7); or
 - (b) any standards or requirements established under paragraph (1),
- are not being met.
- (9) The Board shall cause to be published from time to time (electronically or otherwise) a list of the education and training it has approved which shall specify—
- (a) any course or programme (or part of such a course or programme), training post, general practitioner, examination, assessment or other test of competence that it has approved pursuant to paragraph (5);
 - (b) the date on which that approval was given;
 - (c) any conditions to which that approval is subject pursuant to paragraph (7);
 - (d) where relevant, the date on which that approval was withdrawn; and
 - (e) such other matters as the Board may specify in rules made under paragraph (10).
- (10) The Board shall make rules about the procedure to be followed for giving, withdrawing, and attaching conditions to, approval under this article.
- (11) Subject to the minimum requirements specified in articles 5 and 6, rules made under paragraph (10) may provide that of the categories specified in paragraph (5), only certain categories will be approved by the Board in respect of general practice or a specialty listed in Schedule 3.

Minimum requirements for general practice training

5.—(1) The minimum requirements for general practice training referred to in article 4(2) are that—

- (a) the training shall comply with the requirements of article 31(1) of the Directive or, in the case of part-time training, article 31(1) together with article 34 (requirements for specific training in general practice);
 - (b) subject to paragraph (3), the training shall include at least three years in full-time employment, and shall be supervised by the Board; and
 - (c) the three year period specified in sub-paragraph (b) shall include—
 - (i) a period or periods amounting to at least 12 months employment as a GP Registrar which takes place with a general practitioner who has been approved by the Board for the purpose of providing training in accordance with article 4(5)(d), and
 - (ii) a period or periods amounting to at least 12 months employment in a post (or posts), in a specialty or specialties which the Board has prescribed for this purpose, that post or posts being in accordance with such other requirements as the Board may prescribe.
- (2) Any period remaining under paragraph (1)(b), the minimum periods set out in paragraph (1)(c) having been met, shall consist of a period of employment in a post (or posts) falling within paragraph (1)(c)(i) or (ii).
- (3) In relation to periods of part-time employment under paragraph (1)(c), the requirements of this article may be satisfied by periods of part-time employment of equivalent duration but it shall not be regarded as equivalent unless it includes at least two periods of full-time employment, each lasting not less than one week, one such period falling within paragraph (1)(c)(i), and one such period falling within paragraph (1)(c)(ii).
- (4) A general practitioner who is approved by the Board under article 4(5)(d) for the purposes of providing training to a GP Registrar under paragraph (1)(c)(i) shall be known as a “GP Trainer”.
- (5) “GP Registrar” means a medical practitioner who is being trained in general practice by a GP Trainer whether as part of training leading to the award of a CCT or otherwise.
- (6) Schedule 4 (which sets out the text of articles 30, 31(1) and 34 of the Directive as it had effect on the date this Order was made) shall have effect.

Minimum requirements for specialist training

- 6.—(1) The minimum requirements for specialist training referred to in article 4(2) are that—
- (a) the training must constitute an entire course of training in the specialty in question and must, subject to paragraph (2)—
 - (i) comprise theoretical and practical instruction,
 - (ii) be full-time training,
 - (iii) be supervised by the Board,
 - (iv) be in a university centre, in a teaching hospital or, where the Board is satisfied that it is appropriate, in a health establishment approved for this purpose by the Board,
 - (v) involve the personal participation of the medical practitioner training to be a specialist in the activity and in the responsibilities of the establishments concerned,
 - (vi) comply with the requirements of point 1 of Annex I to the Directive (the characteristics of the full-time training of specialists), and
 - (vii) be at least as long as the relevant period (if any) specified in Schedule 3.
- (2) Part-time specialist training is permitted where training on a full-time basis would not be practicable for well-founded individual reasons, and accordingly, the Board may approve part-time training which satisfies—
- (a) any conditions imposed by the Board;

- (b) the conditions set out in paragraph (1)(a)(i), (iii), (iv) and (v);
 - (c) the following conditions—
 - (i) the standard of training must not be lower than that of full-time training,
 - (ii) the total length of training in the specialty in question must not be less than that of full-time training in the same specialty, and
 - (iii) the training must comply with the requirements of point 2 of Annex I to the Directive (the characteristics of the part-time training of specialists).
- (3) Schedule 5 (which sets out the text of Annex I to the Directive as it had effect on the date this Order was made) shall have effect.

Visiting panels

7.—(1) The Board may, if it thinks fit, appoint a panel of persons (a “visiting panel”) to visit any hospital, institution, general practitioner or other person by whom, where or under whose direction or management—

- (a) any postgraduate medical education or training leading to the award of a CCT is, or is proposed to be given;
- (b) any sub-specialty training is, or is proposed to be given.

(2) A visiting panel must include at least one person who is not and never has been a registered medical practitioner and who does not hold any qualification that is registrable under the Medical Act.

(3) Where a visiting panel visits any hospital, institution, general practitioner or other person in the exercise of its functions under this article, it shall be the duty of the visiting panel to prepare a report to the Board on the visit.

(4) The Board shall, following a request by any person, make available such reports.

(5) Subject to the requirements of this article, the Board shall make rules in relation to visiting panels and such rules shall include provision as to—

- (a) the composition of visiting panels;
- (b) the areas or matters to be covered by a report to the Board under paragraph (3);
- (c) the frequency with which visiting panels shall visit the persons or bodies specified in paragraph (1);
- (d) the manner in which such visits are to be conducted;
- (e) the payment of allowances to persons appointed to visiting panels, including the payment of allowances to employers of persons appointed to visiting panels for the purposes of enabling visitors to perform functions under this article; and
- (f) the reimbursement of such expenses as persons appointed to visiting panels may reasonably have incurred in the course of the panel carrying out its functions under this article.

Award and withdrawal of a Certificate of Completion of Training

8.—(1) The Board shall award a CCT to any person who applies to the Board for that purpose (and pays any fee specified by the Board in rules) if the Board is satisfied that he has satisfactorily completed education and training, approved by the Board in accordance with article 4.

(2) A CCT may be awarded only to a registered medical practitioner, and a CCT in the specialty of oral and maxillo-facial surgery may be awarded only to a person who is also a registered dentist.

(3) Subject to paragraph (4), a CCT may be awarded only to a person who has been appointed to a course of training intended to lead to the award of a CCT and has successfully completed that course of training.

(4) Nothing in this article shall prevent the Board from awarding a CCT to a person when exercising its competent authority functions under article 8 of the Directive as set out in article 20(3) (a) of this Order.

(5) The Board may only award a CCT in general practice, or in a specialty listed in Schedule 3.

(6) A CCT shall state—

- (a) the date on which it was awarded;
- (b) that it was awarded in general practice, or, where applicable, in which specialty it was awarded;
- (c) the name of its holder;
- (d) his primary medical qualifications and where those qualifications were awarded; and
- (e) his registration number in the register of medical practitioners kept by the Registrar of the GMC under section 2 of the Medical Act (establishment and maintenance of registers),

and where more than one year of the training to which the CCT attests took place outside the EEA, the CCT shall make clear that this was so, and shall state the length (in aggregate) of such training.

(7) A CCT shall be signed by the chair of the Board or by such other persons as the chair has nominated for this purpose.

(8) The Board shall make rules as to the procedure to be followed in relation to and by persons wishing to apply to the Board for a CCT, including rules as to the evidence it requires in support of an application for a CCT.

(9) Subject to paragraph (10), for the purposes of article 30 of the Directive (which requires EEA States to institute specific training in general practice), the vocational training certificate issued in the United Kingdom is the CCT in general practice.

(10) The following are also vocational training certificates—

- (a) a certificate of prescribed experience; and
- (b) a certificate of equivalent experience that has been annotated in accordance with regulation 12(7) of the Vocational Training Regulations, regulation 12(7) of the Vocational Training Regulations (Scotland) or regulation 12(7) of the Vocational Training Regulations (Northern Ireland) (which relate to certificate of equivalent experience).

(11) For the purposes of article 4 of the Directive, the diploma, certificate or other evidence of formal qualifications in specialised medicine in the United Kingdom is the CCT, awarded in a specialty listed in Schedule 3.

(12) Where the Board is satisfied that a CCT has been fraudulently procured or incorrectly awarded, it shall—

- (a) direct that the CCT shall be withdrawn; and
- (b) notify the GMC that it has withdrawn that person's CCT.

Information to be provided to the Board

9.—(1) This article applies to any hospital, institution, general practitioner or other person that may be visited by a visiting panel pursuant to article 7(1).

(2) Whenever required to do so by the Board, any person or body specified in paragraph (1) shall give to the Board such information as the Board may reasonably require in connection with the exercise of its functions under or by virtue of this Order.

(3) The matters with respect to which the Board may require information under paragraph (2) include—

- (a) the standards and requirements which must be met by persons pursuing postgraduate medical education and training leading to the award of a CCT;
- (b) the procedures for managing that education or training.

(4) Where a person or body specified in paragraph (1) fails to comply with any reasonable request for information made by the Board under this article, the Board may on that ground alone, after having warned that person or body that this sanction may be imposed, direct that the postgraduate medical education or training to which that information relates is no longer approved, or from a specified date will be no longer approved, within the meaning of article 4(5).

PART 4

THE REGISTERS

The General Practitioner Register

10.—(1) The GMC shall keep a register of general practitioners (“the General Practitioner Register”).

(2) Subject to paragraph (3), the General Practitioner Register shall contain the names of—

- (a) persons who hold a CCT in general practice awarded by the Board;
- (b) other eligible general practitioners as specified in article 11; and
- (c) persons who have an acquired right in accordance with article 12 and Schedule 6.

(3) A person is entitled to have his name included in the General Practitioner Register if he applies to the Registrar of the GMC for the purpose, paying any fee specified by the GMC in rules, and satisfies the Registrar—

- (a) of his entitlement by virtue of paragraph (2); and
- (b) that he is a registered medical practitioner.

(4) Subject to paragraph (5), unless a person’s name is included in the General Practitioner Register, he shall not—

- (a) in England and Wales—
 - (i) be nominated or approved to fill a vacancy for a medical practitioner pursuant to any regulations made under section 29B of the 1977 Act⁽²⁾ (vacancies for medical practitioners),
 - (ii) be included in a list of persons undertaking to provide general medical services pursuant to any regulations made under section 29 of the 1977 Act⁽³⁾ (arrangements and regulations for general medical services) or in a list of persons approved for

(2) Section 29B was inserted by the National Health Service (Primary Care) Act 1997 (c. 46), section 32(1); and amended by: the Health and Social Care Act 2001 (c. 15), section 15(1) and (2), and section 20(1) and (3); and the National Health Service Reform and Health Care Professions Act 2002 (c. 17), section 2(5) and Schedule 2, paragraphs 1 and 5.

(3) Section 29 was extended by the Health and Medicines Act 1988 (c. 49), section 17; and amended by: the Health Services Act 1980 (c. 53), sections 1 and 7 and Schedule 1, paragraph 42(b); the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 6, paragraph 2; the Medical Act 1983 (c. 54), section 56(1) and Schedule 5, paragraph 16(a); S.I. 1985/39, article 7(3); the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 18; the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, paragraph 8; and the National Health Service Reform and Health Care Professions Act 2002 (c. 17), section 2(5) and Schedule 2, paragraphs 1 and 3.

- the purpose of assisting in the provision of any such services prepared pursuant to section 43D of that Act⁽⁴⁾ (supplementary lists),
- (iii) perform personal medical services as part of a pilot scheme within the meaning of section 1(1) of the 1997 Act (pilot schemes), or in accordance with any arrangements made pursuant to section 28C of the 1977 Act⁽⁵⁾ (personal medical or dental services), or
- (iv) be included in any list of persons who may perform personal medical services pursuant to any regulations made under section 8ZA of the 1997 Act⁽⁶⁾ (lists of persons who may perform personal medical services or personal dental services) or section 28DA of the 1977 Act⁽⁷⁾ (lists of persons who may perform personal medical services or personal dental services);
- (b) in Scotland—
- (i) be nominated or approved to fill a vacancy for a medical practitioner to provide general medical services pursuant to any regulations made under section 19B (vacancies for medical practitioners) or section 24 (regulations for medical practices committees) of the 1978 Act⁽⁸⁾,
- (ii) be included in a list of persons undertaking to provide general medical services pursuant to any regulations made under section 19 of the 1978 Act (arrangements and regulations for general medical services) or in a list of persons approved to assist in the provision of such services pursuant to section 24B of that Act⁽⁹⁾ (supplementary lists),
- (iii) perform personal medical services as part of a pilot scheme within the meaning of section 1(1) of the 1997 Act (pilot schemes) or in accordance with any arrangements made pursuant to section 17C of the 1978 Act⁽¹⁰⁾ (personal medical or dental services), or
- (iv) be included in a list of persons who may perform personal medical services pursuant to any regulations made under section 17EA of the 1978 Act⁽¹¹⁾ (services lists);
- (c) in Northern Ireland—
- (i) be included in a list of persons undertaking to provide general medical services pursuant to any regulations made under Article 56 of the Health and Personal Social Services (Northern Ireland) Order 1972⁽¹²⁾ (arrangements for general medical services),
- (ii) perform personal medical services as part of a pilot scheme within the meaning of Article 3(1) of the Health Services (Primary Care) (Northern Ireland) Order 1997⁽¹³⁾, or in accordance with any arrangements made pursuant to Article 15B⁽¹⁴⁾ of the Health and Personal Social Services (Northern Ireland) Order 1972, or perform personal medical services within the meaning of Article 3(7) of the Health Services (Primary Care) (Northern Ireland) Order 1997, or

(4) Section 43D was inserted by the Health and Social Care Act 2001 (c. 15), section 24, and amended by the National Health Service Reform and Health Care Professions Act 2002 (c. 17), section 2(5) and Schedule 2, paragraphs 1 and 20.

(5) Section 28C is to be inserted by the National Health Service (Primary Care) Act 1997 (c. 46), section 21(1).

(6) Section 8ZA was inserted by the Health and Social Care Act 2001(c. 15), section 26(2).

(7) Section 28DA is to be inserted by the Health and Social Care Act 2001 (c. 15), section 26(1).

(8) Section 19B is to be inserted by the National Health Service (Primary Care) Act 1997 (c. 46), section 33(1).

(9) Section 24B is to be inserted by the Community Care and Health (Scotland) Act 2002 (asp 5), section 18(2).

(10) Section 17C was inserted by the National Health Service (Primary Care) Act 1997 (c. 46), section 21(2).

(11) Section 17EA was inserted by the Community Care and Health (Scotland) Act 2002 (asp 5), section 18(1).

(12) S.I. 1972/1265 (N.I. 14).

(13) S.I. 1997/1177 (N.I. 7).

(14) Article 15B is to be inserted by Article 21 of the Health Services (Primary Care) (Northern Ireland) Order 1997 (S.I. 1997/1177 (N.I. 7)).

(iii) be engaged as a deputy by, or be employed as an assistant by a person undertaking to provide general medical services pursuant to any regulations made under Article 56 of the Health and Personal Social Services (Northern Ireland) Order 1972 (arrangements for general medical services).

(5) The prohibition in paragraph (4) does not apply to a person undertaking a period of employment as a GP Registrar, or a person who is provisionally registered under section 15, 15A or 21 of the Medical Act acting in the course of his employment in a resident medical capacity in an approved medical practice (within the meaning of section 11(4) of that Act).

(6) A person whose name is included in the General Practitioner Register by virtue of an acquired right under paragraph 1(d) of Schedule 6 shall not be—

- (a) nominated or approved by a Health Authority or Primary Care Trust pursuant to any regulations made under section 29B of the 1977 Act (vacancies for medical practitioners), or included in a list of persons undertaking to provide general medical services pursuant to any regulations made under section 29 of the 1977 Act (arrangements and regulations for general medical services);
- (b) nominated or approved under section 19B of the 1978 Act (vacancies for medical practitioners), selected in accordance with section 23 of that Act (distribution of general medical services) or included in a list of persons undertaking to provide general medical services pursuant to any regulations made under section 19 of that Act (arrangements and regulations for general medical services); or
- (c) included in a list of persons undertaking to provide general medical services pursuant to any regulations made under Article 56 of the Health and Personal Social Services (Northern Ireland) Order 1972 (arrangements for general medical services),

if he is included in the General Practitioner Register only by virtue of that acquired right.

(7) A restricted services principal whose name is included in the General Practitioner Register by virtue of—

- (a) an acquired right by virtue of paragraph 1(a) of Schedule 6; or
- (b) an exemption from the need to have the prescribed experience under regulation 5(1)(d) of the Vocational Training Regulations, regulation 5(1)(d) of the Vocational Training Regulations (Scotland) or regulation 5(1)(d) of the Vocational Training Regulations (Northern Ireland) (which relate to exemptions),

shall not be entitled to practise otherwise than in accordance with the restriction which applies in his case merely because of his entry on the General Practitioner Register by virtue of that acquired right or exemption.

General practitioners eligible for entry in the General Practitioner Register

11.—(1) A person is an eligible general practitioner for the purposes of article 10(2)(b) if he holds—

- (a) a vocational training certificate or a certificate of acquired rights issued in an EEA State other than the United Kingdom in accordance with Title IV of the Directive, and he is—
 - (i) a national of an EEA State, or
 - (ii) a person who for the purposes of access to and the practice of the medical profession is entitled to be treated in the same way as such a national in order to enable an enforceable Community right to be exercised;
- (b) a certificate of prescribed experience; or
- (c) a certificate of equivalent experience.

(2) A person is also an eligible general practitioner for the purposes of article 10(2)(b) if he was exempt from the need to have acquired the prescribed experience by virtue of regulation 5(1)(a), (b), (c), (d) or (f) of—

- (a) the Vocational Training Regulations (exemptions);
- (b) the Vocational Training Regulations (Scotland) (exemptions); or
- (c) the Vocational Training Regulations (Northern Ireland) (exemptions),

but if a restricted services principal is eligible for inclusion in the General Practitioner Register only by virtue of an exemption under regulation 5(1)(d) of the regulations set out in sub-paragraphs (a), (b) or (c), the Registrar of the GMC shall ensure that the restriction on his right to practise as provided for in article 10(7) is indicated in that person's entry in the General Practitioner Register in such manner as the Registrar thinks fit.

(3) A person is also an eligible general practitioner for the purposes of article 10(2)(b) if he does not fall within paragraph (1) or (2) but he has—

- (a) undertaken training in general practice; or
- (b) been awarded qualifications in general practice,

and he satisfies the Board that that training is, or those qualifications are, or both when considered together are, equivalent to a CCT in general practice.

(4) If a person falls within paragraph (3) and—

- (a) he is also a person falling within sub-paragraph (a)(i) or (ii) of paragraph (1), and he has qualifications in general practice awarded outside the EEA which have been accepted by another EEA State as qualifying him to practise as a general practitioner in that State; or
- (b) he has acquired experience or knowledge in general practice, wherever obtained,

the Board shall, when considering whether it is satisfied as mentioned in paragraph (3), take account of that acceptance or of that experience or knowledge.

(5) If the Board is not satisfied, having taken into account the matters specified in paragraph (4) (where applicable), that a person's training, qualifications, or both when considered together are equivalent to a CCT in general practice, the Board shall give reasons as to why it is not satisfied, and, in particular, shall inform the person of—

- (a) the period of additional training that the person must undertake, and the fields to be covered by it;
- (b) any examination, assessment (including a specified period of assessment) or other test of competence that the person must complete to the Board's satisfaction,

in order to satisfy the Board under paragraph (3).

(6) In respect of any application under paragraph (3), the Board shall notify the applicant of its decision (and, where relevant, of the matters set out in paragraph (5)), in accordance with its duty under article 16(4).

(7) If the Board is satisfied, pursuant to paragraph (3), that a person's training, qualifications, or both when considered together are equivalent to a CCT in general practice, it shall, if the person so requests, issue to that person a written statement attesting to the fact that the person has satisfied the Board that he is eligible for entry in the General Practitioner Register ("statement of eligibility for registration").

(8) The Board shall make rules as to the procedure to be followed in relation to and by persons applying to the Board under paragraph (3), including rules as to the evidence it requires in support of such an application.

Acquired rights of general practitioners

12.—(1) For the purposes of article 36(2) of the Directive (requirement for all EEA States to specify the acquired rights that it recognises for the purpose of exercising general medical practice under its national social security scheme without a vocational training certificate), a person has an acquired right to practise as a general practitioner if he falls within one of the categories of persons set out in Schedule 6.

(2) If—

- (a) a person is included in the General Practitioner Register under article 10(2)(c) only by virtue of an acquired right under paragraph 1(d) of Schedule 6; or
- (b) a restricted services principal is included in the General Practitioner Register only by virtue of paragraph 1(a) of Schedule 6,

the Registrar of the GMC shall ensure that the restriction on his right to practise as provided for in article 10(6) or (7) (as appropriate) is indicated in that person's entry in the General Practitioner Register in such manner as the Registrar thinks fit.

(3) The Board shall, if a person so requests in writing, issue a certificate of acquired rights to him if it is satisfied that he has an acquired right to practise by virtue of Schedule 6.

(4) The Board may make rules as to the procedure to be followed and the evidence it requires in support of a request made by a person under paragraph (3).

The Specialist Register

13.—(1) The GMC shall keep a register of specialists ("the Specialist Register").

(2) Subject to paragraph (3), the Specialist Register shall contain the names of—

- (a) persons who hold a CCT in a specialty listed in Schedule 3 awarded by the Board; and
- (b) other eligible specialists as specified in article 14.

(3) A person is entitled to have his name included in the Specialist Register if he applies to the Registrar of the GMC for the purpose, paying any fee specified by the GMC in rules, and satisfies the Registrar—

- (a) of his entitlement by virtue of paragraph (2); and
- (b) that he is a registered medical practitioner and, in the case of an oral and maxillo-facial surgeon, that he is also a registered dentist.

(4) The Specialist Register shall indicate—

- (a) the specialty in respect of which each person's name is included in the register; and
- (b) subject to paragraph (5), where the Board is satisfied that he has a particular expertise in a field within that specialty and he so requests in his application under paragraph (3) or subsequently, the name or a description of that field.

(5) In order to satisfy the Board that he has a particular expertise in a field such that he is entitled to have that expertise indicated in the register under paragraph (4)(b), the person must satisfy the Board that he has satisfactorily completed—

- (a) sub-specialty training in the United Kingdom that is approved by the Board; or
- (b) any other sub-specialty training outside the United Kingdom that the Board is satisfied is equivalent to sub-specialty training approved by the Board.

(6) Subject to paragraph (7), a person may not take up appointment to any post as a consultant in the National Health Service in a specialty, or any more specialised field within such a specialty, unless his name is included in the Specialist Register.

(7) Paragraph (6) does not apply to any person who held a post as a consultant in oral and maxillo-facial surgery in the National Health Service immediately before 1st January 1997.

Specialists eligible for entry in the Specialist Register

14.—(1) A person is an eligible specialist for the purposes of article 13(2)(b) if he was included in the specialist register maintained by the GMC under the ESMQO 1995 immediately before article 13 of this Order came into force, by virtue of the transitional provisions set out in article 12 of the ESMQO 1995 (existing specialists).

(2) A person is also an eligible specialist for the purposes of article 13(2)(b) if the STA (or, where applicable, the STA's appeal panel), has determined that that person is an eligible specialist pursuant to article 9(2) or (3) of the ESMQO 1995 (eligible specialists).

(3) A person is also an eligible specialist for the purposes of article 13(2)(b) if he holds a recognised specialist qualification (as specified in article 15) and he is—

- (a) a national of an EEA State; or
- (b) a person who for the purposes of access to and the practice of the medical profession is entitled to be treated in the same way as such a national in order to enable an enforceable Community right to be exercised.

(4) A person is also an eligible specialist for the purposes of article 13(2)(b) if—

- (a) he does not fall within paragraph (3); but
- (b) he has—
 - (i) undertaken specialist training, or
 - (ii) been awarded specialist qualifications,
 in a specialty listed in Schedule 3, and he satisfies the Board that that specialist training is, or those qualifications are, or both when considered together are, equivalent to a CCT in the specialty in question.

(5) A person is also an eligible specialist for the purposes of article 13(2)(b) if—

- (a) he has—
 - (i) undertaken specialist training, or
 - (ii) been awarded specialist qualifications,
 outside the United Kingdom in a medical specialty not listed in Schedule 3; or
- (b) he has knowledge of or experience in any medical specialty derived from academic or research work,

and he satisfies the Board that these give him a level of knowledge and skill consistent with practise as a consultant in the National Health Service.

(6) If a person falls within paragraph (4) or (5) and—

- (a) he is also a person falling within sub-paragraph (a) or (b) of paragraph (3), and he has specialist qualifications awarded outside the EEA which have been accepted by another EEA State as qualifying him to practise as a specialist in that State; or
- (b) he has acquired specialist medical experience or knowledge, wherever obtained,

the Board shall, when considering whether it is satisfied as mentioned in paragraph (4) or (5), take account of that acceptance or of that experience or knowledge.

(7) In paragraphs (4) and (5), “specialist training” means specialist medical training that—

- (a) comprises of theoretical and practical instruction in a post specifically designated as a training post;

- (b) takes place in a university centre, a teaching hospital or other health establishment;
 - (c) is supervised by an appropriate authority or other body; and
 - (d) involves the personal participation of the person training to be a specialist in the activity and in the responsibilities of the establishment concerned.
- (8) If the Board is not satisfied, having taken into account the matters specified in paragraph (6) (where applicable), that—
- (a) under paragraph (4), a person’s specialist training, or specialist qualifications, or both when considered together, are equivalent to a CCT in the specialty in question; or
 - (b) under paragraph (5)—
 - (i) a person’s specialist training, or specialist qualifications, or both when considered together, give him the required level of knowledge and skill, or
 - (ii) a person’s knowledge of, or experience in, any medical specialty derived from academic or research work, give him the required level of knowledge and skill,paragraph (9) shall apply.
- (9) Where this paragraph applies, the Board shall give reasons as to why it is not satisfied, and, in particular, shall inform the person of—
- (a) the period of additional training that the person must undertake, and the fields to be covered by it;
 - (b) any examination, assessment (including a specified period of assessment) or other test of competence that the person must complete to the Board’s satisfaction,
- in order to satisfy the Board under paragraph (4) or (5).
- (10) In respect of any application under paragraph (4) or (5), the Board shall notify the applicant of its decision (and, where relevant, of the matters set out in paragraph (9)), in accordance with its duty under article 16(4).
- (11) If the Board is satisfied—
- (a) pursuant to paragraph (4), that a person’s specialist training, specialist qualifications, or both when considered together, are equivalent to a CCT in the specialty in question; or
 - (b) pursuant to paragraph (5) that—
 - (i) a person’s specialist training, specialist qualifications, or both when considered together, give him the required level of knowledge and skill, or
 - (ii) a person’s knowledge of, or experience in, any medical specialty derived from academic or research work, give him the required level of knowledge and skill,it shall, if the person so requests, issue to that person a written statement attesting to the fact that the person has satisfied the Board that he is eligible for inclusion in the Specialist Register (“statement of eligibility for registration”).
- (12) The Board shall make rules as to the procedure to be followed in relation to and by persons applying to the Board under paragraph (4) or (5), including rules as to the evidence it requires in support of such an application.

Recognised specialist qualifications

- 15.—**(1) The following are recognised specialist qualifications for the purposes of article 14(3)—
- (a) a CCST;
 - (b) a specialist qualification listed in Schedule 7 granted in an EEA State other than the United Kingdom in a specialty in which the United Kingdom awards a qualification as set out in Part 1 of Schedule 3;

- (c) a specialist qualification which—
 - (i) was awarded in an EEA State other than the United Kingdom,
 - (ii) was awarded in a specialty in which the United Kingdom awards such a qualification as set out in Part 1 of Schedule 3,
 - (iii) does not satisfy all the minimum training requirements laid down by the Directive,
 - (iv) was awarded following training begun before the relevant date, and
 - (v) is accompanied by a certificate from the competent authority in the EEA State in which the qualification was awarded or in which its holder has subsequently become established, stating that the holder has been engaged in the practice of his specialty for at least the period required by article 9(2) of the Directive;
- (d) a specialist qualification in a specialty in which the United Kingdom awards such a qualification as set out in Part 1 of Schedule 3 which—
 - (i) has been obtained at any time in an EEA State other than the United Kingdom,
 - (ii) does not conform with the designations set out in Schedule 7 or Annex C of the Directive (which together set out the relevant specialist qualifications awarded in EEA States), and
 - (iii) is accompanied by a certificate of the competent authorities of that State to the effect that the qualification was awarded following training in accordance with the provisions of articles 24, 25, 26 or 29 of the Directive (which set out the minimum standards of training for specialist qualifications) and is treated by that State as if it were a qualification set out under the heading relating to the State in Schedule 7 or Annex C of the Directive;
- (e) a specialist qualification which—
 - (i) was awarded in Spain to doctors who completed specialist training before 1st January 1995 that did not comply with the minimum requirements laid down in articles 24 to 26 of the Directive,
 - (ii) was awarded in a specialty in which the United Kingdom awards such a qualification as set out in Part 1 of Schedule 3, and
 - (iii) is accompanied by a certificate awarded by the competent Spanish authorities attesting to the fact that the person concerned has passed the test of specific professional competence organised in accordance with article 9(2a) of the Directive with the aim of verifying that the person concerned has a level of knowledge and competence comparable to that of doctors holding the specialist qualification listed in relation to Spain in Schedule 7; and
- (f) a specialist qualification in a specialty listed in Part 1 of Schedule 3—
 - (i) which is evidence of training which does not accord with the standards laid down by articles 24 to 26 of the Directive, undertaken on the territory of the former German Democratic Republic and begun before 3rd April 1992,
 - (ii) where the holder of the qualification satisfies the GMC (by means of a certificate of the competent authorities in Germany or otherwise) that he is entitled by virtue of that qualification to practise his specialty throughout the territory of Germany on the same conditions as the holder of a qualification awarded in Germany and listed in Schedule 7 and Annex C of the Directive, and
 - (iii) where evidence of the qualification is accompanied by a certificate of the competent authorities in Germany that the holder has practised his specialty in Germany for the period referred to in article 9(4) of the Directive (training in the former German Democratic Republic).

- (2) In paragraph (1)(c), “the relevant date” means—
- (a) 1st January 1981, in the case of a qualification granted in Greece;
 - (b) 1st January 1986, in the case of a qualification granted in Spain or Portugal;
 - (c) 1st January 1994, in the case of a qualification granted in Austria, Finland, Iceland, Norway, or Sweden;
 - (d) 1st May 1995, in the case of a qualification granted in Liechtenstein;
 - (e) 1st June 2002, in the case of a qualification granted in Switzerland; or
 - (f) 20th December 1976, in the case of a qualification granted in any other EEA State.

Decisions on inclusion in the Registers

16.—(1) The Registrar of the GMC shall, within the time specified in paragraph (2), notify a person who has made an application for inclusion in either of the Registers pursuant to article 10(3) or 13(3) that—

- (a) his name has been included in that Register; or
- (b) his name has not been included in that Register, the reason for that decision, and of the applicant’s right to appeal pursuant to article 23 (where applicable).

(2) Except in relation to cases falling within paragraph (3), the Registrar shall notify an applicant of the matters specified in paragraph (1) within—

- (a) the period of three months beginning with the date on which the Registrar of the GMC receives the application with full supporting documentation; or
- (b) any period of additional time which is permitted by article 15 of the Directive.

(3) For the purposes of paragraph (2), the cases excepted are those where a person has applied to the GMC for inclusion in either of the Registers and he has previously had to satisfy the Board that he is—

- (a) an eligible general practitioner pursuant to article 11(3); or
- (b) an eligible specialist pursuant to article 14(4) or (5).

(4) In relation to cases falling within paragraph (3), the Board shall—

- (a) upon receiving an application with full supporting documentation, pursuant to article 11(3), or article 14(4) or (5) (as the case may be), deal expeditiously with that application; and
- (b) co-operate with the GMC, and the GMC shall co-operate with the Board, to ensure that an applicant who has made an application to the Board pursuant to article 11(3), or article 14(4) or (5) (as the case may be) is able to apply to the GMC for inclusion in either of the Registers pursuant to article 10(3) or 13(3) and obtain a decision from the GMC within the specified time.

(5) In paragraph (4), the specified time means, subject to paragraph (6), the period of three months—

- (a) beginning on the date on which the Board receives all the documents enabling it to determine whether the applicant is an eligible general practitioner or an eligible specialist pursuant to article 11(3) or article 14(4) or (5); and
- (b) ending with the date on which the Registrar of the GMC gives the applicant notice under paragraph (1).

(6) In calculating the period of three months pursuant to paragraph (5), the following shall be disregarded—

- (a) the period—

- (i) beginning with the date on which the Board gives the applicant notice under article 11(6) or 14(10) (as the case may be), and
 - (ii) ending with the date on which the GMC receives all the documents enabling it to determine whether it is satisfied of the applicant's entitlement to be registered pursuant to article 10(3) or article 13(3) (as the case may be); and
- (b) any period of additional time which is permitted by article 15 of the Directive.

(7) For the purposes of complying with its duty pursuant to paragraph (4), the Board may, if it sees fit, provide to the GMC information relating to, or copies of, any applications that have been made to it pursuant to article 11(3), or article 14(4) or (5).

Access to the Registers etc.

17.—(1) The GMC shall cause to be published from time to time (electronically or otherwise) a copy of the Registers on a date specified by the Registrar.

(2) If the Registrar of the GMC receives a written inquiry from any person as to whether a named person is included in the General Practitioner Register or the Specialist Register, he shall provide that person with a written response which shall, where applicable, include the details contained in the Register relating to that named person's entry.

- (3) A certificate purporting to be signed by the Registrar of the GMC, certifying that a person—
- (a) is included in the General Practitioner Register or the Specialist Register;
 - (b) is not so included;
 - (c) was included in the General Practitioner Register or the Specialist Register at a specified date or during a specified period;
 - (d) was not included in the General Practitioner Register or the Specialist Register at a specified date or during a specified period; or
 - (e) has never been included,

shall be evidence (and in Scotland sufficient evidence) of the matters certified.

Removal and suspension from the Registers

18.—(1) Where it comes to the notice of the Registrar of the GMC that a person is no longer a registered medical practitioner, the Registrar shall remove that person's name from the General Practitioner Register or the Specialist Register (as the case may be), and shall send him notice of having done so.

(2) Subject to paragraph (3) and (4), where a person removed from the General Practitioner Register or the Specialist Register pursuant to paragraph (1) becomes once again a registered medical practitioner, the Registrar shall, if requested to do so by that person, once again include that person's name in the General Practitioner Register or the Specialist Register (as the case may be) and shall send him notice of having done so.

(3) Where it comes to the notice of the Registrar of the GMC that in the case of an oral and maxillo-facial surgeon—

- (a) his registration in the register of dentists (kept under section 14 of the Dentists Act 1984⁽¹⁵⁾ (the dentists register and the registrar)) has been suspended under any provision of that Act; or
- (b) he is no longer a registered dentist,

(15) 1984 c. 24.

the Registrar shall remove that person's name from the Specialist Register and shall send him notice of having done so.

- (4) Where a person removed from the Specialist Register by virtue of paragraph (3)—
- (a) is no longer suspended from the register of dentists (kept under section 14 of the Dentists Act 1984 (the dentists register and the registrar)), and has not had his name erased from that register; or
 - (b) once again becomes a registered dentist,

the Registrar shall, if requested to do so by that person and provided that person is also a registered medical practitioner, once again include that person's name in the Specialist Register and shall send him notice of having done so.

(5) Where the GMC is satisfied that any entry in the General Practitioner Register or the Specialist Register has been fraudulently procured or incorrectly made it may direct that the entry shall be removed from that Register, and paragraph (6) shall apply.

(6) A decision taken by the GMC pursuant to paragraph (5) shall be treated as an appealable registration decision under Schedule 3A to the Medical Act (registration appeals); and the procedure in that Schedule shall accordingly apply.

(7) Paragraph 6 of Schedule 3A to the Medical Act (notices) shall apply to notices required by this article to be sent to any person by the Registrar of the GMC as it applies to the notifications referred to in that paragraph.

PART 5

THE COMPETENT AUTHORITIES FOR CERTAIN EEA PURPOSES

Specific training in general practice

19. Pursuant to article 42 of the Directive—
- (a) the Board is hereby designated as the competent authority in the United Kingdom for the purposes of Title IV of the Directive (which relates to specific training in general medical practice) except as mentioned in sub-paragraph (b); and
 - (b) for the purposes of article 37 of the Directive (recognition of certificates), the GMC is hereby designated as being responsible for the recognition of vocational training certificates and certificates of acquired rights issued in EEA States other than the United Kingdom.

Specialist qualifications

20.—(1) Pursuant to article 42 of the Directive, in relation to specialist qualifications, there shall be two competent authorities in the United Kingdom for the purposes of Title II and Title III of the Directive—

- (a) the GMC is hereby designated as the competent authority for the purposes of the recognition and registration of specialist qualifications; and
- (b) subject to article 3(12), the Board is hereby designated as the competent authority for the purposes of specialist training and the issue of CCTs and certain other certificates.

(2) In addition to the functions conferred upon it elsewhere in this Order, the GMC shall, in the event of justified doubts, perform the function of requiring the competent authority of another Member State that has awarded a diploma, certificate or other evidence of formal qualification to

confirm its authenticity and to confirm that the holder of the diploma, certificate or other evidence of formal qualification has fulfilled the Directive's minimum training requirements.

(3) In addition to the functions conferred upon it elsewhere in this Order, the Board shall perform the following functions of a Member State or its competent authorities or bodies which derive from the Directive—

- (a) under article 8 of the Directive—
 - (i) the function of assessing the content and duration of specialist training of an EEA national who holds a specialist qualification awarded by a Member State in a specialty in which the United Kingdom does not award a CCT,
 - (ii) the function of taking into account the content and duration of the specialist training of the person concerned, together with that person's professional experience, additional training and continuing medical education, in determining what, if any, additional training that person must complete in order to obtain a CCT in a specified United Kingdom specialty,
 - (iii) the function of communicating its decision to the person concerned within four months of the date on which that person submits his application for a CCT, together with full supporting documentation, and
 - (iv) the function of awarding CCTs to EEA nationals in accordance with the requirements of article 8;
- (b) where required to do so by another EEA State, the function of issuing certificates to specialists as set out in article 9(2) of the Directive, which requires certificates to be issued to persons holding a specialist qualification that does not satisfy all the minimum training requirements laid down by the Directive and was awarded following training begun before the relevant date (which has the same meaning as in article 15(2)), where either—
 - (i) that qualification was awarded by the United Kingdom, or
 - (ii) the person holding that qualification has subsequently become established in the United Kingdom,
 stating that, where applicable, the holder has been engaged in the practice of his specialty for at least the period required by article 9(2) of the Directive;
- (c) the function of issuing certificates of fulfilment of Directive training requirements in respect of specialist qualifications which do not conform with the designations set out in the Directive; and
- (d) where a request is received from another Member State, the function of confirming authenticity of a CCT and of confirming that a person holding a CCT has fulfilled the Directive's minimum training requirements.

PART 6

APPEALS

Appeal to an Appeal Panel against a decision of the Board

21.—(1) The Board shall secure that a person falling within paragraph (2)(a) to (k) has the right of appeal against the decision, act or omission specified in that paragraph to a panel of independent persons (in this article referred to as “an Appeal Panel”), which shall be convened by the Board as soon as practicable.

(2) Paragraph (1) applies to—

- (a) any hospital, institution or other person who satisfies an Appeal Panel that it (or he) has a substantial interest in a decision relating to the approval of education and training leading to the award of a CCT pursuant to article 4(5) where the Board has—
 - (i) refused to approve that education and training (other than by virtue of a restriction imposed by rules it has made under article 4(10) by virtue of article 4(11)),
 - (ii) approved that education and training subject to conditions under article 4(7), or
 - (iii) withdrawn approval from that education and training—
- (aa) under article 4(8) (other than by virtue of a restriction imposed by rules it has made under article 4(10) by virtue of article 4(11)), or
- (bb) under article 9(4).
- (b) a general practitioner—
 - (i) whom the Board has refused to approve under article 4(5)(d),
 - (ii) whom the Board has approved subject to conditions imposed under article 4(7), or
 - (iii) from whom the Board has withdrawn approval under article 4(8);
- (c) a person to whom the Board refuses to award a CCT pursuant to article 8;
- (d) a person whose CCT the Board withdraws pursuant to article 8(12);
- (e) a person who fails to satisfy the Board that he is an eligible general practitioner in accordance with article 11(3);
- (f) a person to whom the Board fails to give a decision under article 11(3) within three months of the date on which the applicant submits his application, together with full supporting documentation;
- (g) a person who fails to satisfy the Board that he is an eligible specialist in accordance with article 14(4) or (5);
- (h) a person to whom the Board fails to give a decision under article 14(4) or (5) within three months of the date on which the applicant submits his application, together with full supporting documentation;
- (i) a person to whom the Board refuses to award a CCT when exercising its functions specified in article 20(3)(a);
- (j) a person who has made an application to the Board as a consequence of its functions specified in article 20(3)(a) and to whom it fails to give a decision within the time period specified in article 20(3)(a)(iii); and
- (k) a person to whom the Board refuses to award a certificate of acquired rights under article 12(3).

(3) The right of appeal under sub-paragraph (e), (g) and (i) of paragraph (2) shall include a right of appeal against a decision of the Board as to the length of additional training, the fields to be covered by it or any examination, assessment (including a specified period of assessment) or other test of competence that the Board has specified under article 11(5), 14(9) or 20(3)(a)(ii).

(4) Subject to paragraph (5), having considered an appeal under this article, an Appeal Panel may—

- (a) dismiss the appeal;
- (b) allow the appeal and quash the decision appealed against;
- (c) substitute for the decision appealed against any other decision that the Board could have made; or
- (d) remit the case to the Board to be disposed of in accordance with the directions of the Appeal Panel.

(5) Where an appeal is made under sub-paragraph (f), (h) or (j) of paragraph (2), an Appeal Panel may, having considered the appeal—

- (a) dismiss the appeal; or
- (b) allow the appeal and—
 - (i) direct the Board to take a decision within a specified time, or
 - (ii) make any decision that the Board could have made.

(6) The Board shall make rules as to the procedure to be followed and the rules of evidence to be observed by an Appeal Panel hearing an appeal under this article.

(7) Rules made under paragraph (6), shall in particular provide—

- (a) for the period within which a person is permitted to appeal to the Appeal Panel against a decision, act or omission of the Board;
- (b) for the Board to maintain a list of persons who may be appointed to an Appeal Panel;
- (c) for an Appeal Panel to consist of three members and a chair;
- (d) for two members of an Appeal Panel to be registered medical practitioners, and for one member to be a person who is not and never has been a registered medical practitioner, and who does not hold any qualification that is registrable under the Medical Act;
- (e) for the chair of an Appeal Panel to be legally qualified and to—
 - (i) have a 10 year general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990(16) (qualification for judicial and certain other appointments);
 - (ii) be an advocate or solicitor in Scotland of at least 10 years' standing, or
 - (iii) be a member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least 10 years' standing;
- (f) that no person who is a member of the Board, the statutory committees or any other committee of the Board, may be appointed to an Appeal Panel;
- (g) that proceedings of an Appeal Panel shall take place in public unless the person or body who is appealing requests a private hearing; and
- (h) that an Appeal Panel shall give reasons for its decision.

(8) The Board may pay such allowances and expenses to persons appointed to an Appeal Panel as it may determine.

Appeal to a court or sheriff against a decision of an Appeal Panel

22.—(1) An appeal from any decision of an Appeal Panel shall lie to the relevant court but must be brought within 28 days beginning with the date on which the appellant was notified of the decision.

- (2) In any appeal under this article, the Board shall be the respondent.
- (3) Subject to paragraph (4), the relevant court may—
 - (a) dismiss the appeal;
 - (b) allow the appeal and quash the decision appealed against;
 - (c) substitute for the decision appealed against any other decision the Board could have made; or
 - (d) remit the case to the Board to be disposed of in accordance with the directions of the court or sheriff,

and may make such order as to costs (or, in Scotland, expenses) as it, or he, as the case may be, thinks fit.

(4) Where the appeal is against a decision of an Appeal Panel made under article 21(5), the relevant court may—

- (a) dismiss the appeal; or
- (b) allow the appeal and—
 - (i) remit the case to the Board to be disposed of in accordance with directions of the court or sheriff, or
 - (ii) make any decision that the Board could have made.

(5) In this article, “relevant court” means the county court or in the case of a hospital, institution, general practitioner or person whose address is in Scotland, the sheriff in whose sheriffdom the address is situated.

Appeals against decisions on inclusion in the Registers

23.—(1) If a person applies to the Registrar of the GMC in order to have his name included in the General Practitioner Register or the Specialist Register pursuant to article 10(3) or 13(3), and—

- (a) he satisfies the Registrar of the GMC that he is a registered medical practitioner pursuant to article 10(3)(b) or 13(3)(b); but
- (b) his application for inclusion in either of the Registers is unsuccessful because he fails to satisfy the Registrar of the GMC that he is an eligible general practitioner or eligible specialist pursuant to article 10(3)(a) or 13(3)(a),

the decision of the Registrar shall be treated as an appealable registration decision under Schedule 3A to the Medical Act (registration appeals) and the procedure in that Schedule shall accordingly apply.

(2) Failure by the GMC to notify a person of the matters specified in article 16(1) within the time specified in article 16(2) or, where applicable, article 16(4) shall be treated as a decision against which a person may appeal under paragraph 4 of Schedule 3A to the Medical Act.

PART 7

MISCELLANEOUS

Fees

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

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

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

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

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

Rules and orders

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

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

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

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

(4) The power of the Secretary of State to make an order under this Order, including an order made under paragraph (2), is exercisable by statutory instrument, and a statutory instrument containing such an order shall be subject to annulment in pursuance of a resolution of either House of Parliament and for the purposes of section 1 of the Statutory Instruments Act 1946⁽¹⁷⁾ this provision shall have effect as if contained in an Act of Parliament.

Default powers of the Secretary of State

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

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

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

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

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

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

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

Annual reports

27.—(1) The Board shall—

- (a) within such time as directed by the Secretary of State, submit a report to him on the Board's exercise of its functions during the period specified by the Secretary of State; and

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

(b) thereafter submit such a report once in each calendar year in respect of the period since its last such report.

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

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

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

(a) the Scottish Parliament by the Scottish Ministers;

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

and the National Assembly for Wales shall publish the report.

Review of the Board's exercise of its functions

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

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

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

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

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

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

(a) the Scottish Parliament by the Scottish Ministers;

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

and the National Assembly for Wales shall publish the report.

Accounts of the Board

29.—(1) The Board shall—

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

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

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

(3) No person may be appointed as an auditor under paragraph (2) unless he is eligible for appointment as a company auditor under section 25 of the Companies Act 1989⁽¹⁸⁾ (eligibility for appointment) or Article 28 of the Companies (Northern Ireland) Order 1990⁽¹⁹⁾ (eligibility for appointment).

⁽¹⁸⁾ 1989 c. 40.

⁽¹⁹⁾ S.I. 1990/593 (N.I. 5).

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

- (a) cause them to be published together with any report on them made by the auditors; and
- (b) send a copy of the annual accounts and of any such report to—
 - (i) the Secretary of State,
 - (ii) the Comptroller and Auditor General,
 - (iii) the Scottish Ministers,
 - (iv) the Department for Health, Social Services and Public Safety in Northern Ireland, and
 - (v) the National Assembly for Wales.

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

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

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

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

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

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

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

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

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

30.—(1) In the Medical Act—

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

“(9) On an appeal under this section from a Fitness to Practise Panel, the General Council may appear as respondent; and for the purpose of any order as to costs (or, in Scotland, expenses) in relation to any such appeal the Council shall be deemed to be a party thereto, whether they appear on the hearing of the appeal or not.”; and
- (b) in paragraph 11 of Schedule 6 to the Medical Act (transitional and savings provisions), at the end of sub-paragraphs (1) and (2), there shall be added “who holds a licence to practise”.

(2) In Part I of Schedule 1 to the Medical Act 1983 (Amendment) Order 2002(20) (consequential amendments to primary legislation), paragraph 1 shall be omitted.

Extent, transitional, transitory, saving and consequential provisions

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

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

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

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

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

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

A. K. Galloway
Clerk of the Privy Council