
STATUTORY INSTRUMENTS

2003 No. 1250

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

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 - (iii) withdrawn approval from that education and training—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 - (iii) from whom the Board has withdrawn approval under article 4(8);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);

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- (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 ^{M1} (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;

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- (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.

Marginal Citations

M1 1990 c. 41.

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),

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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.

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