

**2007 No. 3168**

**HEALTH CARE AND ASSOCIATED PROFESSIONS**

**DOCTORS**

**The General Medical Council (Fitness to Practise)  
(Amendments in Relation to Undertakings) Rules Order of  
Council 2007**

<i>Made</i> - - - -	<i>5th November 2007</i>
<i>Laid before Parliament</i>	<i>12th November 2007</i>
<i>Coming into force</i> - -	<i>17th December 2007</i>

At the Council Chamber, Whitehall, the 5th day of November 2007

By the Lords of Her Majesty's Most Honourable Privy Council

The General Medical Council have made the General Medical Council (Fitness to Practise) (Amendments in Relation to Undertakings) Rules 2007, which are set out in the Schedule to this Order, in exercise of the powers conferred by section 35CC(1) of, and paragraph 1(1) and (2A) of Schedule 4 to, the Medical Act 1983(a).

Before making the Rules, in accordance with paragraph 1(6) of that Schedule, the General Medical Council consulted such bodies of persons representing medical practitioners, and such descriptions of medical practitioners, as appeared to them requisite to be consulted.

By virtue of paragraph 1(7) of that Schedule, such Rules shall not come into force until approved by Order of the Privy Council.

Their Lordships, having taken these Rules into consideration, are pleased to and do approve them.

This Order may be cited as the General Medical Council (Fitness to Practise) (Amendments in Relation to Undertakings) Rules Order of Council 2007 and shall come into force on 17th December 2007.

*Judith Simpson*  
Clerk of the Privy Council

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(a) 1983 c.54; section 35CC was inserted by S.I. 2002/3135 and paragraph 1(2A) of Schedule 4 was inserted by S.I. 2006/1914.

## SCHEDULE

### The General Medical Council (Fitness to Practise) (Amendments in Relation to Undertakings) Rules 2007

The General Medical Council make the following Rules in exercise of the powers conferred by section 35CC(1) of, and paragraph 1(1) and (2A) of Schedule 4 to, the Medical Act 1983.

Before making the Rules, in accordance with paragraph 1(7) of that Schedule, the General Medical Council consulted such bodies of persons representing medical practitioners, and such descriptions of medical practitioners, as appeared to them requisite to be consulted.

#### **Citation and commencement**

1. These Rules may be cited as the General Medical Council (Fitness to Practise) (Amendments in relation to Undertakings) Rules 2007 and shall come into force on 17th December 2007.

#### **Amendments to the General Medical Council (Fitness to Practise) Rules 2004**

2. In the General Medical Council (Fitness to Practise) Rules 2004<sup>(a)</sup>—
- (a) in rule 8 (consideration by Case Examiners), in paragraph (3)—
    - (i) for “rule 10(2)” substitute “rule 10(3)”, and
    - (ii) for “rule 10(3)” (which, following the amendment in sub-paragraph (i), is the second place where this occurs) substitute “rule 10(4)”;
  - (b) in rule 9 (consideration by the Committee), in paragraph (e), for “rule 10(2)” substitute “rule 10(3)”;
  - (c) for rule 10 (undertakings), substitute the following rule—

#### **“Undertakings**

10.—(1) Where, before an allegation has been determined by the Case Examiners under rule 8(2), or referred to the Committee or a FTP Panel, the Registrar considers it appropriate to do so, the Registrar may refer the allegation to the Case Examiners for consideration under this rule.

(2) If after considering the allegation it appears to the Case Examiners that—

- (a) the practitioner’s fitness to practise is impaired; or
- (b) the practitioner suffers from a continuing or episodic physical or mental condition which, although in remission at the time of the assessment, may be expected to cause a recurrence of impairment of the practitioner’s fitness to practise,

they may recommend that the practitioner be invited to comply with such undertakings as they think fit (including any limitations on the practitioner’s practice).

(3) Where the Case Examiners make a recommendation under paragraph (2), they shall inform the Registrar who shall write to the practitioner accordingly, inviting the practitioner to state within the period of 28 days from the date of the letter (or such further period as the Registrar may allow) whether the practitioner is prepared to comply with such undertakings.

(4) If within the period of 28 days from the date of the letter (or such further period as the Registrar may allow) the practitioner confirms in writing that he is prepared to comply with the undertakings recommended under paragraph (2), the Case Examiners shall cease

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(a) Scheduled to S.I. 2004/2608.

consideration of the allegation and make no decision under rule 8(2), and the Registrar shall notify the practitioner and the maker of the allegation (if any) in writing accordingly.

(5) The Registrar shall not invite the practitioner to comply with any such undertakings where there is a realistic prospect that, if the allegation were referred to a FTP Panel, his name would be erased from the register.

(6) Where the Case Examiners have ceased consideration of an allegation in accordance with paragraph (4), the Registrar may carry out any investigations, which may include (but are not limited to) requesting the provision of reports or directing an assessment be carried out in accordance with Schedule 1 or 2, that are, in the Registrar's opinion, appropriate to the consideration of—

- (a) whether the practitioner has complied with any undertakings in place; or
- (b) the practitioner's fitness to practise.

(7) Where, as a result of information received by the General Council, it appears to the Case Examiners that any undertakings the practitioner has agreed to comply with under this rule should be varied or cease to apply, they shall inform the Registrar accordingly and the Registrar shall—

- (a) invite the practitioner to comply with such varied undertakings as appear to the Case Examiners to be appropriate; or
- (b) direct that the undertakings should no longer apply and that the allegation should not be considered further.

(8) Where the Registrar receives information that—

- (a) the practitioner has not within the period of 28 days from the date of the letter (or such further period as the Registrar may allow) agreed to comply with the undertakings with which the practitioner was invited to comply under paragraph (3) or (7)(a);
- (b) the practitioner has failed to observe an undertaking he has agreed to comply with under paragraph (4) or which has been varied following an invitation to comply with it under paragraph (7)(a); or
- (c) the practitioner's health or performance has deteriorated, or otherwise gives rise to further concern regarding his fitness to practise,

the Registrar may refer the allegation for determination by a FTP Panel.”; and

- (d) in rule 12 (review of decisions), in paragraph (1)(c), for “rule 10(3)” substitute “rule 10(4)”.

Given under the official seal of the General Medical Council the 24th day of October 2007



*Graeme Catto*  
President

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order approves amendments made by the General Medical Council to the General Medical Council (Fitness to Practise) Rules 2004. These amendments provide for the consensual disposal of fitness to practise cases in circumstances where a medical practitioner who is the subject of fitness to practise proceedings agrees undertakings as regards his or her future conduct. Provision is also made for the monitoring of compliance with such undertakings and for the referral of the case for further consideration, where necessary.

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