
STATUTORY INSTRUMENTS

2015 No. 1967

HEALTH CARE AND ASSOCIATED PROFESSIONS

DOCTORS

The General Medical Council (Constitution of the Medical Practitioners Tribunal Service) Rules Order of Council 2015

<i>Made</i> - - - -	<i>1st December 2015</i>
<i>Laid before Parliament</i>	<i>2nd December 2015</i>
<i>Coming into force</i> - -	<i>31st December 2015</i>

At the Council Chamber, Whitehall, the 1st day of December 2015

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

The General Medical Council has made the General Medical Council (Constitution of the Medical Practitioners Tribunal Service) Rules 2015 which are set out in the Schedule to this Order, in exercise of the powers conferred by paragraph 19F of Schedule 1 to the Medical Act 1983(a).

By virtue of paragraph 24 of Schedule 1(b) to that Act the Rules shall not have effect until approved by order of the Privy Council.

Citation and commencement

1. This Order may be cited as the General Medical Council (Constitution of the Medical Practitioners Tribunal Service) Rules Order of Council 2015 and comes into force on 31st December 2015.

Privy Council approval

2. Their Lordships, having taken the Rules in the Schedule into consideration, are pleased to and do approve them.

Richard Tilbrook
Clerk of the Privy Council

(a) 1983 c. 54. Paragraph 19F of Schedule 1 was inserted by article 2(4) of S.I. 2015/794.
(b) Paragraph 24 was amended by article 4(5) of S.I. 2015/794.

SCHEDULE

Article 2

The General Medical Council (Constitution of the Medical Practitioners Tribunal Service) Rules 2015

These Rules are made by the General Medical Council in exercise of the powers conferred by paragraph 19F of Schedule 1 to the Medical Act 1983(a).

Citation, commencement and interpretation

1. These Rules may be cited as the General Medical Council (Constitution of the Medical Practitioners Tribunal Service) Rules 2015 and come into force on 31st December 2015.

2. Interpretation In these Rules—

“the Act” means the Medical Act 1983;

“chair” means the chair of the MPTS;

“final outcome”, in relation to any proceedings where there are rights of appeal, means the outcome of the proceedings—

- (a) once the period for bringing an appeal has expired without an appeal being brought; or
- (b) if an appeal is brought in accordance with those rights, once those rights have been exhausted;

“lay” in relation to any person, means a person who is not and never has been provisionally or fully registered, was at no time registered with limited registration and does not hold qualifications which would entitle them to apply for provisional or full registration under the Act;

“licensing body” means any body, other than the General Council, anywhere in the world that licenses or regulates any profession;

“member”, unless the context otherwise requires, means a registrant member or a lay member and includes the chair;

“registrant” means a registered medical practitioner who holds a licence to practise;

“spent conviction” means—

- (a) in relation to a conviction by a court in Great Britain, a conviction that is a spent conviction for the purposes of the Rehabilitation of Offenders Act 1974(b); or
- (b) in relation to a conviction by a court in Northern Ireland, a conviction that is a spent conviction for the purposes of the Rehabilitation of Offenders (Northern Ireland) Order 1978(c).

Composition of the MPTS

3.—(1) The MPTS are to consist of 2 registrant members and 3 lay members.

(2) Only persons who are not members of the General Council are to be members of the MPTS.

(3) The General Council must set and publish criteria which a person must satisfy (whether in relation to qualifications, experience, competencies or other matters) in order to be eligible for appointment as chair or another member of the MPTS.

(a) 1983 c. 54. Paragraph 19F of Schedule 1 was inserted by article 2(4) of S.I. 2015/794.

(b) 1974 c.53.

(c) S.I. 1978/1908 (N.I. 27).

Terms of office of members

4.—(1) The term of office for which a member of the MPTS is appointed is to be determined by the General Council on appointment.

(2) No member of the MPTS may hold office as a member (including as chair) of the MPTS for more than an aggregate of 8 years during any continuous period of 20 years.

(3) For the purposes of the computation of years under paragraph (2), service after 1st February 2012 as a member of the relevant committee constituted under paragraph 25 of Schedule 1 to the Act is to be taken into account: this applies to a member appointed to the MPTS under paragraph 19F(6) of Schedule 1 to the Act.

Education and training of members

5.—(1) The General Council must make provision in standing orders with respect to the requirements with regard to education and training of members of the MPTS, and those standing orders may provide for—

- (a) education and training to be the responsibility of another body; and
- (b) those requirements to be set and varied by that body from time to time.

Disqualification from appointment as a member

6.—(1) A person (P) is disqualified from appointment as a member of the MPTS if any of the following paragraphs apply.

(2) If P has at any time been convicted of an offence involving dishonesty or deception in the United Kingdom and the conviction is not a spent conviction.

(3) If P has at any time been convicted of an offence in the United Kingdom, and—

- (a) the final outcome of the proceedings was a sentence of imprisonment or detention; and
- (b) the conviction is not a spent conviction.

(4) If P has at any time been removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners, the Charity Commission or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity—

- (a) for which P was responsible or privy; or
- (b) to which P contributed or facilitated;

(5) If P has at any time been removed from being concerned with the management or control of any body under section 34(5)(e) of the Charities and Trustee Investment (Scotland) Act 2005(a) (powers of Court of Session);

(6) If P has at any time been removed from office as the chair, member, convenor or director of any public body on the grounds, in terms, that it was not in the interests of, or conducive to the good management of, that body that P should continue to hold that office;

(7) If P has at any time been adjudged bankrupt or sequestration of P's estate has been awarded, and—

- (a) P has not been discharged; or
- (b) P is the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986(b) (bankruptcy restrictions order and undertaking).

(8) If P has at any time made a composition or arrangement with, or granted a trust deed for, P's creditors and P has not been discharged in respect of it.

(9) If P is subject to any of the following—

(a) 2005 asp 10.
(b) 1986 c. 45.

- (a) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986(a);
- (b) a disqualification order or disqualification undertaking under the Company Directors Disqualification (Northern Ireland) Order 2002(b);
- (c) an order made under section 429(2) of the Insolvency Act 1986(c) (disabilities on revocation of a county court administration order).

(10) If P has been included by—

- (a) the Disclosure and Barring Service in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006(d) or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007(e)); or
- (b) the Scottish Ministers in the children's list or the adults' list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007(f)).

(11) If P has at any time been subject to any investigation or proceedings concerning the person's fitness to practise by any licensing body, the final outcome of which was any of the following—

- (a) P's suspension from a register held by the licensing body, and that suspension has not been terminated;
- (b) P's erasure from a register held by the licensing body or a decision that had the effect of preventing the person from practising the profession licensed or regulated by the licensing body;
- (c) a decision that had the effect of only allowing P to practise that profession subject to conditions, and those conditions have not been lifted.

(12) If P has at any time been subject to any investigation or proceedings concerning P's fitness to practise by the General Council, in the course of which or where the final outcome has been that—

- (a) P's registration in the register has been suspended (including by an interim suspension order or an order under section 38 of the Act (power to order immediate suspension etc. after a finding of impairment of fitness to practise)) and that suspension has not been terminated;
- (b) P has been erased from the register (for a reason connected to P's fitness to practise); or
- (c) P's registration in the register has been made conditional upon their compliance with any requirement (including by an order for interim conditional registration or an order under section 38 of the Act) and that requirement has not been lifted.

(13) If P has at any time been subject to any investigation or proceedings relating to an allegation that P's entry in the register was fraudulently procured, the final outcome of which was P's erasure from the register.

(14) If P has agreed in the course of proceedings concerning P's fitness to practise to comply with undertakings, in accordance with rules under paragraph 1(2A) to (2D) of Schedule 4 to the Act (procedure and evidence before the Investigation Committee, Interim Orders Tribunals and Medical Practitioners Tribunals), and the undertakings continue to apply.

(15) If—

- (a) P is, or has been subject to any investigation or proceedings concerning P's fitness to practise by any licensing body or by the General Council; and
- (b) the General Council is satisfied that P's membership of the MPTS would be liable to undermine public confidence in the regulation of the medical profession.

(a) 1986 c.46.

(b) S.I. 2002/3150 (N.I. 4).

(c) 1986 c.45.

(d) 2006 c.47.

(e) S.I. 2007/1351 (N.I. 11).

(f) 2007 asp 14.

(16) If P has at any time been convicted of an offence elsewhere than in the United Kingdom and the General Council is satisfied that the person's membership of the MPTS would be liable to undermine public confidence in the regulation of the medical profession.

Removal of members from office

7.—(1) A registrant member or a lay member of the MPTS must be removed from office by the General Council in the following circumstances.

(2) A registrant member of the MPTS must be removed where that member—

- (a) is erased from the register for a reason not connected to that member's fitness to practise;
- (b) has become the subject of any investigation or proceedings concerning that member's fitness to practise by the General Council or any licensing body, as a result of which—
 - (i) that member's registration in the register is suspended;
 - (ii) that member is erased from the register; or
 - (iii) that member's registration in the register has been made conditional upon that member's compliance with any requirement,and the proceedings relating to that particular sanction referred to in whichever of paragraphs (i) to (iii) applies have reached their final outcome;
- (c) has become the subject of any investigation or proceedings relating to an allegation that that member's entry in the register was fraudulently procured or incorrectly made, the final outcome of which is the removal of that member's entry in the register;
- (d) has agreed in the course of proceedings concerning that member's fitness to practise to comply with undertakings, in accordance with rules under paragraph 1(2A) to (2D) of Schedule 4 to the Act (procedure and evidence before the Investigation Committee, Interim Orders Tribunals and Medical Practitioners Tribunals).

(3) A lay member of the MPTS must be removed where that member becomes a person who no longer satisfies the criteria for being a lay member of the MPTS.

(4) A registrant or a lay member of the MPTS must be removed where—

- (a) that member resigns, which that member may do at any time by a notice in writing to the General Council;
- (b) that member becomes a person of the type mentioned in any of paragraphs (2), (3), (7) to (10) of rule 6 (irrespective of whether or not they subsequently cease to be a person of the type mentioned in those provisions);
- (c) that member becomes a person of the type mentioned in paragraphs (4) to (6) of rule 6;
- (d) the General Council is satisfied that that member's level of attendance at meetings of the MPTS falls below a minimum level of attendance acceptable to the General Council, having regard to—
 - (i) any recommended minimum levels of attendance that the General Council have set; and
 - (ii) whether or not there were reasonable causes for the member's absences;
- (e) the General Council is satisfied that that member has failed, without reasonable cause, to undertake satisfactorily the requirements with regard to education and training for members that apply to that member and which the General Council have included in their standing orders;
- (f) the General Council is satisfied that that member is no longer able to perform their duties as a member of the MPTS because of adverse physical or mental health;
- (g) the General Council is satisfied that that member's continued membership of the MPTS would be liable to undermine public confidence in the regulation of the medical profession.

(5) A registrant member, or as the case may be, a lay member must notify the General Council and the MPTS in writing as soon as that member becomes aware that any of paragraphs (2), (3) or (4)(b) or (c) applies, or is about to apply, to that member.

(6) Any member of the MPTS or employee of the General Council may notify the General Council if that member or employee is of the view that the General Council may need to exercise its functions under this rule.

(7) The chair must notify the General Council if the chair is aware that—

- (a) a member has become, or may be about to become, a person to whom any of paragraphs (2), (3) or (4)(b) or (c) applies; and
- (b) that member has not notified the General Council in writing of that fact and the chair is not satisfied that the member will do so immediately.

Suspension of members from office

8.—(1) The General Council may suspend a member of the MPTS from office by a notice in writing served on the member—

- (a) if the General Council has reasonable grounds for suspecting that the member has become a person to whom any of paragraphs (3) or (4)(b) or (c) of rule 7 applies, for the purposes of determining whether or not the member has become such a person;
- (b) while the General Council is considering whether or not it is satisfied as to the matters set out in any of sub-paragraphs (d) to (g) of paragraph (4) of rule;
- (c) if the member is subject to any investigation or proceedings concerning the member's fitness to practise by—
 - (i) any licensing body; or
 - (ii) the General Council,

and the General Council is satisfied that it would not be appropriate for the member to continue to participate in proceedings of the MPTS while the investigation or proceedings concerning the member's fitness to practise is or are on-going;

- (d) if the member is subject to any investigation or proceedings concerning whether the member's entry in the register was fraudulently procured or incorrectly made and the General Council is satisfied that it would not be appropriate for the member to continue to participate in proceedings of the MPTS while the investigation or proceedings concerning the member's entry in the register is or are on-going; or
- (e) if the member is subject to any investigation or proceedings in the United Kingdom relating to a criminal offence, or in any other part of the world relating to an offence which, if committed in any part of the United Kingdom, would constitute a criminal offence, and—
 - (i) either—
 - (aa) the investigation or proceedings relate to an offence involving dishonesty or deception; or
 - (bb) the final outcome of the investigation or proceedings may be that the person is sentenced to a term of imprisonment or detention; and
 - (ii) the General Council is satisfied that it would not be appropriate for the member to continue to participate in proceedings of the MPTS while the investigation or proceedings is or are on-going.

(2) The General Council must suspend a registrant member from office by a notice in writing served on the member if the member is the subject of an order under section 38(a) or 41A(b) of

(a) Section 38 was substituted by article 13 of S.I. 2002/3135 and amended by article 12(6) of S.I. 2015/794.

(b) Section 41A was substituted by article 13 of S.I. 2002/3135 and amended by article 6 of S.I. 2015/794.

the Act (power to order immediate suspension etc. after a finding of impairment of fitness to practise, and interim orders).

(3) The notice in writing under paragraph (1) or (2) must set out the reasons for the suspension and the duration of the period of suspension, which must (in the first instance) not be for more than 6 months.

(4) The General Council—

- (a) may at any time review its suspension of a member; and
- (b) must, if requested to do so by the suspended member at any time after the expiry of 3 months from when the suspension commenced, review any such suspension.

(5) Following a review, the General Council may—

- (a) terminate the suspension;
- (b) if that review is within 3 months of the end of a period of suspension, extend the suspension for a further period of up to 6 months from the date on which the suspension would otherwise come to an end.

(6) The General Council must notify the suspended member in writing of the outcome of any review and that notice must include the reasons for any decision taken.

Chair of the MPTS

Appointment, term of office and cessation of office of the chair

9.—(1) The General Council must, as one of its functions relating to the appointment of members of the MPTS, appoint the chair of the MPTS.

(2) The General Council may appoint a person to be the chair of the MPTS (“the appointee”)—

- (a) when it appoints that person to be a member of the MPTS; or
- (b) whom it has already appointed as a member of the MPTS.

(3) The General Council must, upon making the appointment, determine the term of the appointee’s office as chair and that term cannot last beyond the date on which the appointee’s term of office as a member of the MPTS is due to expire (irrespective of whether or not the appointee is thereafter reappointed as a member of the MPTS).

(4) An appointee ceases to be chair upon—

- (a) ceasing to be a member of the MPTS;
- (b) resigning as chair, which the appointee may do at any time by a notice in writing to the General Council;
- (c) suspension of the appointee’s membership of the MPTS by the General Council; or
- (d) a vote to terminate the appointee’s appointment as chair by a simple majority of the members of the General Council.

Deputising arrangements

10.—(1) If, for any reason, the chair is absent from a meeting of the MPTS, the General Council may —

- (a) nominate a member of the MPTS (“deputy chair”) to serve as chair at that meeting; or
- (b) determine that the meeting will not take place, or will not continue (in circumstances where the meeting has already commenced).

This is subject to paragraph (2).

(2) This paragraph applies where, for any reason—

- (a) the General Council is aware that the chair is likely—

- (i) to be absent for more than one meeting of the MPTS; or
 - (ii) to be unavailable to perform the duties of a chair for more than one month; or
 - (b) the office of chair is vacant.
- (3) Where paragraph (2) applies, the General Council may, for the duration of the absence or unavailability of the chair or the vacancy—
- (a) nominate a member (“deputy chair”) to serve as chair;
 - (b) delegate the functions of the chair of the MPTS to the chair of the General Council.
- (4) A member serving as deputy chair must cease to be deputy chair—
- (a) in the case of—
 - (i) the absence or unavailability of the chair, once the chair notifies the MPTS that they are able to resume their duties; or
 - (ii) the office of chair being vacant, once the vacancy is filled;
 - (b) if the member ceases to be a member;
 - (c) if the member resigns as deputy chair, which the member may do at any time by a notice in writing to the General Council;
 - (d) if the member’s membership of the MPTS is suspended by the General Council; or
 - (e) if the General Council votes (by a majority at a quorate meeting) to terminate the member’s appointment as deputy chair.

Delegation

11.—(1) The General Council may direct the MPTS to delegate to the chair of the MPTS, or to such other officer of the General Council as the Council determines, such of the functions of the MPTS as the Council determines.

(2) Where a direction is made by the General Council under paragraph (1), the MPTS must comply with it.

Proceedings of the MPTS

Quorum

12. The quorum of the MPTS is to be 3.

Effect of vacancies etc. on the validity of proceedings

13.—(1) The validity of any proceedings of the MPTS is not to be affected by—

- (a) any vacancy among the members of the MPTS;
- (b) any defect in the appointment of a member of the MPTS;
- (c) the participation in proceedings of a member whom the General Council must remove from the MPTS under any of paragraphs (2), (3), (4)(b) or (c) of rule 7;
- (d) a member whom the General Council has removed under rule 7 having participated in the proceedings; or
- (e) a member who has been suspended by the General Council under rule 8(1) or (2) having participated in the proceedings.

(2) Notwithstanding paragraph (1)(c), a member whom the General Council must remove from the MPTS under any of paragraphs (2), (3), (4)(b) or (c) of rule 7 is not entitled to participate in proceedings of the MPTS, pending the member’s removal from the MPTS by the General Council.

Given under the official seal of the General Medical Council this 19th day of November 2015.

Terence Stephenson
Chair

Niall Dickson
Chief Executive and Registrar

EXPLANATORY NOTE

(This note is not part of the Order)

This Order approves the General Medical Council (Constitution of the Medical Practitioners Tribunal Service) Rules 2015 (“the Rules”) which have been made by the General Medical Council (GMC) and are contained in the Schedule to the Order.

The Rules provide for the constitution of the Medical Practitioners Tribunal Service (“the MPTS”).

Rule 3 provides for constitution of the MPTS to consist of 2 registrant and 3 lay members.

Rule 4 provides that the GMC is to determine the term of office of a member of the MPTS upon their appointment. It further provides that no person can be a member for more than a total of 8 years in any continuous period of 20 years.

Rule 5 requires the GMC to make provision in its standing orders in respect of education and training of members of the MPTS.

Rule 6 specifies when a person is disqualified from appointment as lay, or as the case may be, registrant member of the MPTS.

Rule 7 specifies when a lay, or as the case may be, registrant member of the MPTS must be removed from that position by the GMC.

Rule 8 specifies when a lay, or as the case may be, registrant member of the MPTS may be suspended from the MPTS by the GMC. It also provides that a registrant member must be suspended by the GMC if that member is subject to an immediate suspension order or interim order arising from fitness to practise proceedings. Provision is also made for the review of a suspension by the GMC either on its own initiative or, in certain cases, upon application of the suspended member.

Rule 9 enables certain functions of the MPTS to be delegated to the chair of that body or to another officer of the GMC.

Rule 10 provides that the quorum of the MPTS is to be 3.

Rule 11 provides that the proceedings of the MPTS are unaffected by certain specified defects.