

2017 No.1049

HEALTH CARE AND ASSOCIATED PROFESSIONS

DOCTORS

**The General Medical Council (Miscellaneous Amendments)
Order of Council 2017**

Made - - - - *31st October 2017*
Laid before Parliament *2nd November 2017*
Coming into force - - *30th November 2017*

At the Council Chambers, Whitehall, the 31st day of October 2017

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

The General Medical Council has made the General Medical Council (Miscellaneous Amendments) Rules 2016 which are set out in the Schedule to this Order, in exercise of the powers conferred by sections 1(2) and 35CC(1) of, and paragraph 1B(4) of Schedule 1 to, and paragraphs 1(1), (2ZA), (2ZB), (2C), (2D) and (4) of Schedule 4 to, the Medical Act 1983(a).

By virtue of section 1(2) of, and paragraph 1(7) of Schedule 4 to, that Act the Rules are not to have effect until approved by order of the Privy Council.

Citation and commencement

1.—(1) This Order may be cited as the General Medical Council (Miscellaneous Amendments) Order of Council 2017 and comes into force on 30 November 2017.

Privy Council approval

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

Richard Tillbrook
Clerk of the Privy Council

(a) 1983 c.54. Section 1(2) was substituted by paragraph 1 of Schedule 1 of S.I. 2008/1774. Section 35CC was substituted by article 13 of S.I. 2002/3135 and amended by paragraph 18 of Schedule 1 of S.I. 2008/3131 and articles 4(12) and 22(1) of S.I. 2015/794. Schedule 4 was substituted by S.I. 2002/3135. Paragraph 1(1) of Schedule 4 was amended by article 8(1) of S.I. 2015/794. Paragraph 1B of Schedule 1 was substituted by paragraph 21 of Schedule 1 of S.I. 2008/1774. S.I. 2015/794 added the following paragraphs to Schedule 4: paragraphs 1(2ZA), (2ZB), (2C) and (2D). Paragraph 1(4) of Schedule 4 was amended by article 8 of S.I. 2015/794. There was no consultation under article paragraph 1(6) of Schedule 4 to the Medical Act 1984 as the amendments were not substantive, consisting of technical and consequential amendments.

SCHEDULE

Article 2

The General Medical Council (Miscellaneous Amendments) Rules 2016

These Rules are made by the General Medical Council in exercise of the powers conferred by sections 1(2) and 35CC(1) of, and paragraph 1B(4) of Schedule 1 to, and paragraphs 1(1), (2ZA), (2ZB), (2C), (2D) and (4) of Schedule 4 to, the Medical Act 1983(a).

Citation and commencement

1. These Rules may be cited as the General Medical Council (Miscellaneous Amendments) Rules 2016 and come into force on 30th November 2017.

PART 1

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

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

2. The General Medical Council (Fitness to Practise) Rules 2004(b) are amended in accordance with rules 3 to 14.

Amendment of rule 2

3. In rule 2 (interpretation)(c), in the definition of “Assessment Team”, omit “three or more”.

Amendment of rule 17

4. Rule 17 (procedure before a Medical Practitioners Tribunal)(d) is amended as follows—

(a) in paragraph (3), for “General Medical Council” substitute “General Council”;

(b) for paragraph (5)(b)(ii), substitute—

“(ii) any person from whom the practitioner is seeking such employment or with whom the practitioner is seeking to enter into such an arrangement, and”;

(c) in paragraph (9), for “makings”, substitute “making”.

(a) 1983 c.54. Section 35CC was substituted by article 13 of S.I. 2002/3135 and amended by paragraph 18 of Schedule 1 of S.I. 2008/3131 and articles 4(12) and 22(1) of S.I. 2015/794. Schedule 4 was substituted by S.I. 2002/3135. Paragraph 1(1) of Schedule 4 was amended by article 8(1) of S.I. 2015/794. Paragraph 1B of Schedule 1 was substituted by paragraph 21 of Schedule 1 of S.I. 2008/1774. S.I. 2015/794 added the following paragraphs to Schedule 4: paragraphs 1(2ZA), (2ZB), (2C) and (2D). Paragraph 1(4) of Schedule 4 was amended by article 8 of S.I. 2015/794. There was no consultation under paragraph 1(6) of Schedule 4 to the Medical Act 1983 as the amendments were not substantive in nature and consist of technical and consequential amendments.

(b) Scheduled to S.I. 2004/2608. These Rules have been amended by the Rules in Part 1 of the Schedule to the General Medical Council (Amendments to Miscellaneous Rules and Regulations) Order of Council SI 2015/1964.

(c) Rule 2 was amended by rule 3 as set out in the Rules Scheduled to S.I. 2015/1964.

(d) Rule 17 was substituted by rule 21 as set out in the Rules Scheduled to S.I. 2015/1964.

Amendment of rule 17ZA

5. In rule 17ZA(procedure at a non-compliance hearing)(a), before “the order” omit “(1)”.

Amendment of rule 18

6. In paragraph 2 of rule 18 (application of Part 5), for “37A(3)” substitute “37A(5)”.

Amendment of rule 20

7. In rule 20 (notice)(b)—
- (a) in paragraph (1), for “20” substitute “28”;
 - (b) omit paragraph (2).

Amendment of rule 22

8. In rule 22 (procedure at review hearing)(c)—
- (a) for paragraph (4)(b)(ii), substitute—
 - “(ii) any person from whom the practitioner is seeking such employment or with whom the practitioner is seeking to enter into such an arrangement , and”;
 - (b) in paragraph (5)(b), for “a direction” substitute “an order”.

Amendment of rule 22A

9. In rule 22A (procedure at a non-compliance review hearing)(d)—
- (a) before “the order” omit “(1)”;
 - (b) for paragraph (1)(g), substitute—
 - “(g) the Medical Practitioners Tribunal may receive further evidence and hear further submissions from the parties as to its decision whether to make a direction under section 35D(5), (6), (8), (10) or (12) of the Act;”;
 - (c) in paragraph (1)(i), for “a direction”, substitute “an order”.

Amendment of rule 26

10. In rule 26 (notice)(e), before “Prior to” omit “(1)”.

Amendment of rule 27

11. In paragraph (4) of rule 27 (procedure at an interim orders hearing)(f)—
- (a) for sub-paragraph (b)(ii), substitute—
 - “(ii) where the practitioner is not present, require the representative for the GMC to confirm the practitioner’s name and GMC Reference Number;”;
 - (b) in paragraph (c), for “Interim Orders Panel” substitute “Interim Orders Tribunal”.

(a) Rule 17ZA was inserted by rule 21 as set out in the Rules Scheduled to S.I. 2015/1964.
(b) Rule 20 was substituted by rule 25 as set out in the Rules Scheduled to S.I. 2015/1964.
(c) Rule 22 was substituted by rule 29 as set out in the Rules Scheduled to S.I. 2015/1964.
(d) Rule 22A was inserted by rule 29 as set out in the Rules Scheduled to S.I. 2015/1964.
(e) Rule 26 was substituted by rule 33 as set out in the Rules Scheduled to S.I. 2015/1964.
(f) Rule 27 was substituted by rule 34 as set out in the Rules Scheduled to S.I. 2015/1964.

Amendment of rule 28

12. In rule 28 (withdrawal of a matter)(a), for paragraphs (1) to (4) substitute—

“(1) Where, after an allegation has been referred to the Committee and before the opening of the hearing before the Committee—

- (a) a practitioner who has requested an oral hearing withdraws that request; or
- (b) it appears to the Registrar for some other reason that the hearing should not be held,

the Registrar may refer the matter to a medical or lay Case Examiner for a decision as to whether or not the matter (or part of it) should be withdrawn.

(2) Where, after a matter has been referred to a Medical Practitioners Tribunal or Interim Orders Tribunal and before the opening of the hearing before the Tribunal, it appears to the Registrar that a matter (or part of it) should not be considered by a Medical Practitioners Tribunal or that an Interim Orders Tribunal should not consider making an order, the Registrar may refer the matter to a medical or lay Case Examiner for a decision as to whether the matter (or part of it) should be withdrawn.

(3) Where paragraph (1) or (2) applies, a Case Examiner may decide that—

- (a) all or part of the matter referred to in that paragraph should be withdrawn; or
- (b) in the case of a matter that has been referred to a Medical Practitioners Tribunal, other than a non-compliance matter, the matter should be referred for consideration by a medical and lay Case Examiner under rule 10 or 11.

(4) Where a decision is taken under paragraph (3) of this rule, the Registrar shall as soon as is reasonably practicable, serve notice in writing upon the practitioner and the maker of the allegation (if any), and shall give reasons for the decision in the notice.”.

Amendment of rule 34

13. In paragraph (10) of rule 34 (evidence)(b), for “Panel” substitute “Tribunal”.

Amendment of Schedule 1

14. In paragraph 1(2) of Schedule 1 (Performance Assessments)(c) for “unless other specified” substitute “unless otherwise specified”.

PART 2

Amendments to the General Medical Council (Constitution) Order 2008

Amendments to the General Medical Council (Constitution) Order 2008

15. The General Medical Council (Constitution) Order 2008(d) is amended as follows—

- (a) for article 5(1) (disqualification from appointment as a member), substitute—

“(1) has in the course of proceedings concerning the person’s fitness to practise agreed to comply with undertakings, in accordance with rules under paragraphs 1(2A) to (2D) of Schedule 4 to the Act (procedure and evidence before the Investigation Committee, Interim

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- (a) Rule 28(2) and (3) were substituted by rule 35(4) and rule 28(4) was amended by rule 35(5) as set out in the Rules Scheduled to S.I. 2015/1964.
 - (b) Rule 34(1), (9) and (11) were amended by Rules Scheduled to S.I. 2013/815; and paragraphs (1), (7), (8), (9), (9B), (11), (12), (13) and (14) of rule 34 were amended by rule 41 as set out in the Rules Scheduled to S.I. 2015/1964.
 - (c) Schedule 1(2) was amended by rule 50 as set out in the Rules Scheduled to S.I. 2015/1964.
 - (d) S.I. 2008/2554.

Orders Tribunals and Medical Practitioners Tribunals) and the undertakings continue to apply;”;

(b) for paragraph (g) of article 6(1) (removal of members from office), substitute—

“(g) in the case of a registrant member, the member has in the course of proceedings concerning the member’s fitness to practise agreed to comply with undertakings, in accordance with rules under paragraphs 1(2A) to (2D) of Schedule 4 to the Act (procedure and evidence before the Investigation Committee, Interim Orders Tribunals and Medical Practitioners Tribunals);”.

Given under the official seal of the General Medical Council this 6th day of June 2016

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 (Fitness to Practise) (Amendment) Rules 2016 (“the 2016 Rules”) which have been made by the General Medical Council and are contained in the Schedule to the Order.

Rules 3 to 14 of the 2016 Rules make technical amendments to, the General Medical Council (Fitness to Practise) Rules 2004 (“the 2004 Rules”). In particular, rule 2 amends rule 20 of the 2004 Rules to increase the timeframe for serving notice of a review hearing from 20 to 28 days before the hearing and rule 15 makes amendments to the General Medical Council (Constitution) Order 2008 to refer to the new Medical Practitioners Tribunals and Interim Orders Tribunals and changes to the powers to agree undertakings.