STATUTORY INSTRUMENTS

2015 No. 794

HEALTH CARE AND ASSOCIATED PROFESSIONS

The General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015

Made - - - - 19th March 2015
Coming into force in accordance with article 1(2) and (3)

At the Court at Buckingham Palace, the 19th day of March 2015

Present,

The Queen's Most Excellent Majesty in Council

This Order in Council is made in exercise of the powers conferred by sections 60 and 62(4) and (4A) of, and Schedule 3 to, the Health Act 1999(**1**).

The Secretary of State and the Scottish Ministers published a draft Order and invited representations as required by paragraph 9(1) and (3) of Schedule 3 to the Health Act 1999.

The period of three months mentioned in paragraph 9(4) of that Schedule expired before a draft of this Order in Council, together with a report about consultation, was laid before Parliament and the Scottish Parliament.

A draft of this Order in Council has been approved by resolution of each House of Parliament and of the Scottish Parliament in accordance with section 62(10) of the Health Act 1999.

Accordingly, Her Majesty is pleased, by and with the advice of Her Privy Council, to make the following Order in Council:

(**1**) 1999 c.8. Section 60 was amended by paragraph 16 of Schedule 5 to the Nursing and Midwifery Order 2001 (S.I. 2002/253); section 26(9) of the National Health Service Reform and Health Care Professions Act 2002 (c.17); paragraph 1 of Schedule 8 to the Health and Social Care Act 2008 (c.14); sections 209, 210 and 213 of, and paragraphs 60 and 72 of Schedule 15 to, the Health and Social Care Act 2012 (c.7); paragraph 7 of Schedule 4 to the Pharmacy Order 2010 (S.I. 2010/231); paragraph 43 of Schedule 34 to the Human Medicines Regulations 2012 (S.I. 2012/1916). Section 62 was amended by paragraph 1 of Schedule 4 to the National Health Service (Consequential Provisions) Act 2006 (c.43); and paragraph 2 of Schedule 8 to the Health and Social Care Act 2008. Section 62(4) and (4A) was substituted by paragraph 11 of Schedule 10 the Health and Social Care Act 2008. Schedule 3 was amended by section 26(10) of the National Health Service Reform and Health Care Professions Act 2002; paragraph 8(b) of Schedule 4 to the Health and Social Work Professions Order 2002 (S.I. 2002/254); paragraph 67 of Schedule 11, and paragraph 1 of Schedule 14, to the Health and Social Care (Community Health and Standards) Act 2003 (c.43); Schedule 9 to the Health Act 2006 (c. 28); paragraphs 4 to 10 of Schedule 8, and paragraph 1 of Schedule 15, to the Health and Social Care Act 2008; section 211 of, and paragraphs 61 and 72 of Schedule 15 to, the Health and Social Care Act 2012.

PART 1

Preliminary

Citation, commencement and interpretation

1.—(1) This Order may be cited as the General Medical Council (Fitness to Practise and Over-arching Objective) and the Professional Standards Authority for Health and Social Care (References to Court) Order 2015.

(2) This article and article 27 come into force on the day after the day on which this Order is made.

(3) The other provisions of this Order come into force on such day as the Privy Council may by order appoint; and different days may be appointed for different purposes.

(4) If an amendment made by article 21 is brought into force before article 3, any reference in the amendment to a Medical Practitioners Tribunal is, pending the commencement of article 3, to be read as a reference to a Fitness to Practise Panel of the General Medical Council.

(5) The Privy Council may by order make transitional, transitory or saving provision in connection with the commencement of a provision of this Order.

(6) In this Order, "the Medical Act" means the Medical Act 1983(**2**).

PART 2

The Medical Practitioners Tribunal Service

Establishment of the MPTS as a committee of the General Medical Council

2.—(1) In section 1 of the Medical Act (the GMC: constitution etc.), in subsection (3)(**3**), before "constituted in accordance with" insert—

"(g) the Medical Practitioners Tribunal Service ("the MPTS"),".

(2) In subsection (3A) of that section, omit "paragraphs (c), (d) and (e) of".

(3) In section 55(1) of that Act (interpretation), at the appropriate place insert—

""the MPTS" means the Medical Practitioners Tribunal Service";.

(4) In Part 3 of Schedule 1 to that Act (committees of the GMC)(**4**), before paragraph 23 (and the preceding cross-heading) insert—

"**Medical Practitioners Tribunal Service**

19F.—(1) The MPTS are to be constituted as provided by rules made under this paragraph by the General Council.

(2) Rules under this paragraph must secure that only persons who are not members of the General Council are to be members of the MPTS.

(3) Rules under this paragraph must include provision with regard to—

(**2**) 1983 c.54. A number of amendments were made by Schedules 6 and 7 to the Health and Social Care Act 2008 (c.14) to provisions of the Medical Act 1983 amended by this Order but those amendments were not commenced and have now been repealed by section 231 of the Health and Social Care Act 2012 (c.7).
(**3**) Section 1(3) and (3A) as substituted by S.I. 2002/3135 was amended by S.I. 2006/1914 and S.I. 2008/3131.
(**4**) Part 3 of Schedule 1 was amended by S.I. 2002/3135 and S.I. 2006/1914.

(a) the numbers of registrant members and lay members of the MPTS;

(b) (subject to sub-paragraph (6)) the appointment of members of the MPTS and the terms of office for which members are appointed, and the rules may provide that these are to be determined by whoever makes the appointment as member, on appointment;

(c) the grounds (in addition to that mentioned in sub-paragraph (2)) on which a person is to be disqualified from appointment as a registrant or lay member of the MPTS;

(d) (subject to sub-paragraph (6)) the appointment of a chair of the MPTS and the chair's term of office, and the rules may provide that the term is to be determined by whoever makes the appointment as chair, on appointment;

(e) deputising arrangements in respect of the chair;

(f) the quorum at meetings of the MPTS;

(g) the circumstances in which a member of the MPTS ceases to hold office or may be removed or suspended from office.

(4) Provision by virtue of sub-paragraph (3)(a) must secure that the registrant members of the MPTS do not form a majority of the members.

(5) The chair of the MPTS is, by virtue of being appointed as such, an officer of the General Council.

(6) Where, immediately before the commencement of this paragraph, a committee of the General Council constituted under paragraph 25 have been carrying out functions relating to fitness to practise proceedings, the General Council—

(a) may appoint as the chair of the MPTS, for such period as the Council may determine, the person who, immediately before the commencement of this paragraph, was the chair of that committee, and

(b) may appoint as a member of the MPTS other than the chair, for such period as the Council may determine, a person who, immediately before the commencement of this paragraph, was a member of that committee.

(7) Rules under this paragraph may include provision for enabling the General Council to direct the MPTS to delegate to the chair of the MPTS, or to such other officer of the Council as the Council determine, such of the functions of the MPTS as the Council determine (and for enabling the MPTS so to delegate).

(8) Rules under this paragraph may include provision with regard to 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 as another member of the MPTS; and the rules may, in particular, require the General Council to set and publish those criteria.

(9) Rules under this paragraph may include provision with regard to—

(a) the maximum period for which a member of the MPTS may hold office during a specified period;

(b) the maximum period for which a member of the MPTS may serve as chair of the MPTS during a specified period;

(c) the education and training of members of the MPTS, and the rules may provide for the General Council to include the requirements with regard to education and training of members of the MPTS in standing orders, and for those standing orders to provide for—

(i) the education and training to be the responsibility of another body, and

(ii) those requirements to be set and varied by that body from time to time;

(d) the attendance of members of the MPTS at meetings of the MPTS;

(e) the effect (if any) of any vacancy in the membership of the MPTS or any defect in the appointment of a member.

(10) The MPTS must maintain a system for the declaration and registration of private interests of their members.

(11) The MPTS must publish in such manner as they see fit entries recorded in the register of members' private interests.

(12) In this paragraph, "registrant member" and "lay member" each have the same meaning as in paragraph 1A.

(13) Rules under this paragraph may make different provision for different cases or different classes of case and may contain such incidental, consequential, transitional, transitory, saving or supplementary provisions as appear to the General Council to be necessary or expedient."

(5) In paragraph 15 of that Schedule (standing orders of the GMC)(**5**), in sub-paragraph (3), at the end insert ", except in so far as is necessary for enabling standing orders to make provision with regard to the financial affairs of the MPTS or to make provision by virtue of paragraph 19F(9)(c)."

(6) In paragraph 16 of that Schedule (officers of the GMC)(**6**), after sub-paragraph (3) insert—

"(3A) A deputy or assistant registrar who is authorised in accordance with provision made by virtue of paragraph 19F(7) to act on behalf of the MPTS may not, while so authorised, act for the Registrar in any matter."

Medical Practitioners Tribunals and Interim Orders Tribunals: establishment etc.

3.—(1) In section 1 of the Medical Act (GMC: constitution etc.), in subsection (3)—

(a) omit paragraphs (b) and (f), and

(b) after paragraph (g) (inserted by article 2(1)) insert—

"(h) one or more Medical Practitioners Tribunals,

(i) one or more Interim Orders Tribunals,".

(2) In Part 3 of Schedule 1 to that Act (committees of the GMC), omit paragraphs 19A and 19E(**7**) and the preceding cross-heading in each case.

(3) After paragraph 19F of that Schedule (inserted by article 2(4)) insert—

"**Medical Practitioners Tribunals and Interim Orders Tribunals**

19G.—(1) Medical Practitioners Tribunals and Interim Orders Tribunals are to be constituted as provided by rules made under this paragraph by the General Council.

(2) Rules under this paragraph must include provision with regard to—

(a) the appointment by the MPTS of persons to—

(i) a list of persons eligible to serve as the chair of a Medical Practitioners Tribunal or Interim Orders Tribunal;

(ii) a list of persons eligible to serve as a registrant member of either such Tribunal;

(iii) a list of persons eligible to serve as a lay member of either such Tribunal;

(**5**) Paragraph 15 of Schedule 1 was amended by S.I. 2006/1914, 2008/1774 and S.I. 2008/3131.
(**6**) Paragraph 16 of Schedule 1 was amended by S.I. 2002/3135 and 2008/1774.
(**7**) Paragraphs 19A and 19E of Schedule 1 were substituted by S.I. 2002/3135.

(b) the determination by the MPTS of the terms on which a person holds a position on a list referred to in paragraph (a) (a "panel list") and of the grounds on which the MPTS may suspend or remove a person from holding a position on a panel list;

(c) the selection by the MPTS of persons who are on a panel list to serve as the chair and the other members of a Medical Practitioners Tribunal or Interim Orders Tribunal;

(d) the quorum for a Medical Practitioners Tribunal or Interim Orders Tribunal.

(3) A person appointed to a panel list within sub-paragraph (2)(a)(ii) or (iii) may also be appointed to a panel list within sub-paragraph (2)(a)(i).

(4) Rules under this paragraph must secure that—

(a) only a person who is not a member of the General Council, the Investigation Committee, a Registration Panel or a Registration Appeals Panel, or who is not an officer of the General Council, may be appointed to a panel list;

(b) a person who serves as a member of an Interim Orders Tribunal, or as a member of a Medical Practitioners Tribunal in arrangements made under section 41A(A1), may not serve as a member of a Medical Practitioners Tribunal in any subsequent proceedings in the case concerned.

(5) Rules under this paragraph may provide for a person to be appointed to a panel list either generally or only for particular proceedings or a particular class of proceedings.

(6) Rules under this paragraph must provide that a person appointed to a panel list holds and ceases to hold a position on the list in accordance with the terms of that person's appointment.

(7) Rules under this paragraph may include provision with regard to criteria which a person must satisfy (whether in relation to qualifications, experience, competencies or other matters) in order to be eligible for appointment to a panel list or for selection to serve as the chair of a Medical Practitioners Tribunal or Interim Orders Tribunal; and the rules may, in particular, require the MPTS to set and publish those criteria.

(8) Rules under this paragraph may also make provision for a body (including a committee of the General Council which is not one of the statutory committees) to assist the MPTS in connection with the exercise of functions conferred on the MPTS by virtue of sub-paragraph (2)(a) or (b).

(9) The MPTS must provide or arrange for the provision of—

(a) such training as they may determine for persons appointed to a panel list;

(b) such training as they may determine for persons whom they propose to appoint to a panel list.

(10) Rules under this paragraph may include provision with regard to the effect (if any) of any defect in the appointment of a person to a panel list or in the selection of a person to serve as the chair or another member of a Medical Practitioners Tribunal or an Interim Orders Tribunal.

(11) The MPTS must maintain a system for the declaration and registration of private interests of persons appointed to a panel list.

(12) The MPTS must publish in such manner as they see fit entries recorded in the register of appointees' private interests.

(13) There are to be paid to persons appointed to a panel list such remuneration and such travelling, subsistence or other expenses as the General Council may allow.

(14) In this paragraph, "registrant member" and "lay member" each have the same meaning as in paragraph 1A.