

2015 No. 1965

HEALTH CARE AND ASSOCIATED PROFESSIONS

DOCTORS

**The General Medical Council (Constitution of Panels, Tribunals
and Investigation Committee) Rules Order of Council 2015**

Made - - - - *1st December 2015*

Laid before Parliament *2nd December 2015*

Coming into force - - *31st December 2015*

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 Panels, Tribunals and Investigation Committee) Rules 2015 which are set out in the Schedule to this Order, in exercise of the powers conferred by paragraphs 19B to 19D, 19G, 23 and 23B 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 Panels, Tribunals and Investigation Committee) 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.

Revocation of Orders of Council

3. The following instruments are revoked—

(a) 1983 c. 54. Paragraphs 19B to 19D, 23 and 23B of Schedule 1 were substituted by S.I. 2002/3135. Paragraphs 19B and 23 were also amended by article 3(2) of S.I. 2006/1914. Paragraph 19G of Schedule 1 was inserted by article 3(3) S.I. 2015/794. In making these Rules, the General Medical Council has given effect to the overriding objective in paragraph 23D of Schedule 1 to the Medical Act 1983.

(b) Paragraph 24 was substituted by article 5(3) of S.I. 2002/3135 and then amended by article 4(5) of S.I. 2015/794.

- (a) the General Medical Council (Constitution of Panels and Investigation Committee) Rules Order of Council 2004(a);
- (b) the General Medical Council (Constitution of Panels and Investigation Committee) (Amendment) Rules Order of Council 2005(b);
- (c) the General Medical Council (Constitution of Panels and Investigation Committee) (Amendment) Rules Order of Council 2009(c);
- (d) the General Medical Council (Constitution of Panels and Investigation Committee) (Amendment) Rules Order of Council 2010(d).

Richard Tilbrook
Clerk of the Privy Council

SCHEDULE

Article 2

The General Medical Council (Constitution of Panels, Tribunals and Investigation Committee) Rules 2015

These Rules are made by the General Medical Council in exercise of the powers conferred by paragraphs 19B to 19D, 19G, 23 and 23B of Schedule 1 to the Medical Act 1983(e).

Citation, commencement and interpretation

1. These Rules may be cited as the General Medical Council (Constitution of Panels, Tribunals and Investigation Committee) Rules 2015 and come into force on 31st December 2015.

Interpretation

2. In these Rules—

“the Act” means the Medical Act 1983;

“appropriate person” means a person of good character who is fit to sit as a panellist or tribunal member;

“the Committee” means the Investigation Committee;

“lay” 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;

“medical” in relation to any person, means a registered medical practitioner;

“Panel” means a Registration Appeals Panel or a Registration Panel;

“panellist” means a person sitting on a Panel or the Investigation Committee;

“Tribunal” means an Interim Orders Tribunal or a Medical Practitioners Tribunal.

Lists of panellists

3.—(1) The General Council must, in accordance with paragraphs (3) and (4), appoint to and maintain—

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- (a) S.I. 2004/2611.
 - (b) S.I. 2005/402.
 - (c) S.I. 2009/2751.
 - (d) S.I. 2010/474.
 - (e) 1983 c. 54 Paragraphs 19B to 19D, 23 and 23B of Schedule 1 were substituted by article 5(3) of S.I. 2002/3135. Paragraphs 19B and 23 were also amended by article 3(2) of S.I. 2006/1914. Paragraph 19G of Schedule 1 was inserted by article 3(3) of S.I. 2015/794. In making these Rules, the General Medical Council has given effect to the overriding objective in paragraph 23D of Schedule 1 to the Act.

- (a) a list of medical and lay appropriate persons eligible to act as panellists on a Registration Appeals Panel; and
 - (b) a list of medical and lay appropriate persons eligible to act as panellists on the Committee or a Registration Panel.
- (2) The General Council must remove from the lists maintained under paragraph (1) any person—
- (a) whose term of appointment has come to an end, unless that person’s appointment to the relevant list has been renewed;
 - (b) who resigns from the relevant list by giving notice in writing to that effect to the General Council; or
 - (c) who in the opinion of the General Council has ceased to be an appropriate person.
- (3) A member of the General Council may act as a panellist on the Committee or a Registration Panel but cannot act as a panellist on a Registration Appeals Panel and, accordingly, cannot be appointed to the list at paragraph (1)(a).
- (4) A person cannot, at the same time, be included in both the lists maintained under paragraph (1).

Lists of tribunal members

- 4.—(1) The MPTS must, in accordance with paragraphs (2) to (4),—
- (a) Appoint to and maintain—
 - (i) a list of persons eligible to serve as a registrant member of a Tribunal, and
 - (ii) a list of persons eligible to serve as a lay member of a Tribunal,
 - (b) 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 to a list at sub-paragraph (a)(i) or (ii);
 - (c) determine the terms on which a person holds a position on a list at sub-paragraph (a)(i) or (ii);
 - (d) determine the grounds on which it may suspend or remove a person from holding a position on a list at sub-paragraph (a)(i) or (ii).
- (2) A person appointed to a list at paragraph (1)(a)(i) or (ii) holds and ceases to hold a position on the list in accordance with the terms of their appointment.
- (3) A member of the General Council, the Committee, a Panel, or an officer of the General Council, cannot act as a Tribunal member and, accordingly, cannot be appointed to a list maintained under paragraph (1)(a)(i) or (ii).
- (4) A person cannot, at the same time, be included in both lists maintained under paragraph (1)(a).

Constitution of Panels, Tribunals and the Committee

- 5.—(1) Membership of a Registration Appeals Panel must—
- (a) comprise medical and lay panellists selected by the Registrar in accordance with paragraphs (4) and (5) from the list maintained under rule 3(1)(a); and
 - (b) include at least one person whose name is included in the list maintained under rule 6(1)(a).

This is subject to rules 6(8) and 7.

- (2) Membership of the Committee or a Registration Panel must—
- (a) comprise medical and lay panellists selected by the Registrar in accordance with paragraphs (4) and (5) from the list maintained under rule 3(1)(b), and

- (b) include at least one person whose name is included in the list maintained under rule 6(1)(b).

This is subject to rules 6(9) and 7.

(3) Membership of a Tribunal must—

- (a) comprise medical and lay members selected by the MPTS in accordance with paragraphs (4) and (5) from a list maintained under rule 4(1)(a), and
- (b) include at least one person whose name is included in the list maintained by the MPTS under rule 6(4).

This is subject to rules 6(9) and 7.

(4) A panellist or Tribunal member cannot act as a panellist or Tribunal member (as the case may be) on a Panel, a Tribunal or the Committee for the substantive hearing of a case that that panellist or member has previously considered, or adjudicated upon, in any other capacity.

(5) Nothing in paragraph (4) is to prevent—

- (a) a Tribunal member who sat on a Medical Practitioners Tribunal in proceedings relating to the fitness to practise of any person from acting as a tribunal member on a subsequent Medical Practitioners Tribunal—
 - (i) in proceedings in which the Tribunal is to determine whether or not to make a direction under section 35D(5), (6), (8), (10) or (12)(a) of the Act relating to that person, or
 - (ii) in proceedings relating to an application for restoration of that person's name to the register;
- (b) a tribunal member who sat on an Interim Orders Tribunal in proceedings relating to a person from acting as a tribunal member on a subsequent Interim Orders Tribunal in proceedings in which the Tribunal is to review an order under section 41A(2) or (9)(b) of the Act in respect of that person.

Chair

6.—(1) The General Council must appoint to and maintain—

- (a) from the list maintained under rule 3(1)(a), a list of panellists eligible to act as Chair of a Registration Appeals Panel;
- (b) from the list maintained under rule 3(1)(b), a list of panellists eligible to act as Chair of the Committee or a Registration Panel.

(2) The General Council must remove from the list maintained under —

- (a) paragraph (1)(a), the name of any person removed from the list referred to in rule 3(1)(a);
- (b) paragraph (1)(b), the name of any person removed from the list referred to in rule 3(1)(b).

(3) The Registrar must select a person to act as Chair in respect of proceedings before—

- (a) a Registration Appeals Panel, from the list maintained under paragraph (1)(a);
- (b) the Committee or Registration Panel, from the list maintained under paragraph (1)(b).

(4) The MPTS must appoint to and maintain from the lists referred to in rule 4(1)(a), a list of persons eligible to serve as Chair of a Tribunal.

(5) The MPTS must remove from the list maintained under paragraph (4) the name of any person removed from the lists maintained under rule 4(1)(a).

(a) Paragraphs (5), (6), (8), (10) and (12) of section 35D were substituted by article 13 of S.I. 2002/3135; amended by article 7 of S.I. 2014/1101 and by article 5 of S.I. 2015/794.

(b) Paragraph (2) of section 41A was substituted by article 13 of S.I. 2002/3135. Paragraphs (2) and (9) of section 41(A) were amended by article 6(4) of S.I. 2015/794.

(6) The MPTS must select a person to act as Chair in respect of proceedings before a Tribunal from the list maintained under paragraph (4).

(7) The MPTS 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 selection to serve as Chair of the Tribunal.

(8) If the Chair selected under paragraph (3) is unavailable for the whole or part of any proceedings or becomes ineligible to act as Chair during the course of any proceedings, then the Registrar may appoint another panellist, present at the commencement of the proceedings, to act as Chair for the whole or part of the hearing.

(9) If the Chair selected under paragraph (6) is unavailable for the whole or part of any proceedings or becomes ineligible to act as Chair during the course of any proceedings, then the MPTS may appoint another tribunal member, present at the commencement of the proceedings, to act as Chair for the whole or part of the hearing.

Quorum

7.—(1) Including the Chair, the quorum of a Panel, a Tribunal or the Committee is to be three panellists of whom—

- (a) at least one must be a medical panellist or Tribunal member; and
- (b) at least one must be a lay panellist or Tribunal member.

Validity of proceedings

8.—(1) The validity of any proceedings of a Panel, a Tribunal or the Committee is not be affected by any defect in the appointment of a panellist or a Tribunal member.

(2) This paragraph applies where a panellist or a Tribunal member is unavailable for the whole or part of any proceedings or becomes ineligible to act during the course of any proceedings and the proceedings are adjourned as a result.

(3) Where paragraph (2) applies, the hearing may proceed notwithstanding that—

- (a) any panellists or Tribunal members present at the original hearing are not present at the subsequent hearing; or
- (b) any panellists or Tribunal members present at the subsequent hearing were not present at the original hearing.

(4) Paragraph (3) does not apply where the Registrar or the MPTS (as the case may be) considers that it is in the interests of justice to convene a freshly constituted Panel, Tribunal or Committee.

Revocation of Rules

9. The following are revoked—

- (a) the General Medical Council (Constitution of Panels and Investigation Committee) Rules 2004(a);
- (b) the General Medical Council (Constitution of Panels and Investigation Committee) (Amendment) Rules 2005(b);
- (c) the General Medical Council (Constitution of Panels and Investigation Committee) (Amendment) Rules 2009(c);

(a) Scheduled to S.I. 2004/2611.
(b) Scheduled to S.I. 2005/402.
(c) Scheduled to S.I. 2009/2751.

- (d) the General Medical Council (Constitution of Panels and Investigation Committee) (Amendment) Rules 2010(a);
- (e) rule 3 of the General Medical Council (Fitness to Practise and Constitution of Panels and Investigation Committee) (Amendment) Rules 2013(b).

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 Panels, Tribunals and Investigation Committee) Rules 2015 (“the 2015 Rules”) which have been made by the General Medical Council and are contained in the Schedule to the Order.

The 2015 Rules provide for the constitution of the following Panels, Tribunals and the Committee of the General Medical Council—

- (a) Registration Panel and Registration Appeals Panel,
- (b) Interim Orders Tribunal and Medical Practitioners Tribunal, and
- (c) the Investigation Committee.

Rule 3 provides for the establishment of lists of medical and lay persons who are eligible to be Panel members. It also provides for their removal from such lists.

Rule 4 makes similar provision in relation to Tribunal membership.

Rule 5 provides for the constitution of Panels, Tribunals and the Committee.

Rule 6 provides for the appointment by the General Medical Council of the Chair of Panels and the Committee and for appointment by the MPTS of the Chair of Tribunals. It also makes provision for proceedings of Panels, Tribunals and the Committee to continue in the absence of the Chair.

Rule 7 provides that the quorum of panels, Tribunals and the Committee is to be 3. It also prevents Panels, Tribunals and the Committee from being composed exclusively by either lay or registrant members.

Rule 8 provides that the proceedings of Panels, Tribunals and the Committee are unaffected by certain specified defects.

Rule 9 revokes earlier Rules of the General Medical Council relating to the constitution of Panels and the Committee. This Order also revokes, where appropriate, the Orders of the Privy Council to which those Rules were Scheduled.

(a) Scheduled to S.I. 2010/474.
(b) Scheduled to S.I. 2013/815.

In making the 2015 Rules, the General Medical Council has given effect to the overriding objective of paragraph 23D of Schedule 1 to the Medical Act 1983 (c.54). That paragraph requires the General Medical Council when making rules with respect the constitution of Tribunals, to secure that the Tribunal deals with cases fairly and justly.