

Island of



Guernsey

Ordinance of the States

**L
2015**

Made 24th November, 2015

The Regulation of Health Professions (Medical Practitioner) (Guernsey and Alderney) (Amendment) Ordinance, 2015

**The Regulation of Health Professions (Medical
Practitioners) (Guernsey and Alderney) (Amendment)
Ordinance, 2015**

THE STATES, in pursuance of their Resolution of the 30th July, 2015^a and in exercise of the powers conferred on them by sections 1, 2 and 3 of the Regulation of Health Professions (Enabling Provisions) (Guernsey) Law, 2012^b and section 1 of the Alderney (Application of Legislation) Law, 1948^c and all other powers enabling them in that behalf, hereby order:-

Amendments to the principal Ordinance.

1. The principal Ordinance is amended as follows.

2. For section 1 of the principal Ordinance, substitute the sections set out in Schedule 1 to this Ordinance.

3. For section 2(3) of the principal Ordinance, substitute the following subsections –

"(3) On receiving an application made in accordance with subsection (2), the Department –

- (a) must decide whether or not any of the mandatory grounds for refusal apply to the

^a Articles XI and XII of Billet d'État No. XIV (Vol. 1) of 2015.

^b Order in Council No. IX of 2013.

^c Ordres en Conseil Vol. XIII, p. 448; as amended by Vol. XXIV, p. 210; Vol. XXIX, p. 299; Vol. XXX, p. 224; Vol. XXXVII, p. 251.

application, and

- (b) if any of those grounds apply, must refuse the application and give the applicant written notice of the refusal, including the reasons for it and a copy of section 9L of this Ordinance.

(4) If none of the mandatory grounds for refusal applies, the Department –

- (a) upon the applicant's request, may register that applicant for a period not exceeding 4 weeks pending consideration of the application under this Ordinance,
- (b) must decide whether or not, in its opinion, any of the discretionary grounds for refusal applies or is likely to apply, and
- (c) if in its opinion, none of the discretionary grounds for refusal applies or is likely to apply, must refer the application to the responsible officer to decide what, if any, additional conditions are to be specified under section 2D.

(5) If the Department decides under subsection (4)(b) that one or more of the discretionary grounds for refusal apply or are likely to apply, the Department must refer the application to the Registration Panel (together with the Department's recommendation as to whether or not the application should be refused) to decide whether to refuse the application

under section 2C.

(6) Subsections (3) and (4) are subject to a deferral of the Department's decision under section 2A.

(7) Any decision or recommendation of the Department under this section must be made in consultation with the responsible officer."

4. Between sections 2 and 3 of the principal Ordinance, insert the sections set out in Schedule 2 to this Ordinance.

5. In section 4(1) of the principal Ordinance, delete the word "and" at the end of paragraph (a), and insert, between paragraphs (a) and (b), the following paragraph –

"(aa) the costs, allowances and expenses of the Registration Panel, and".

6. In section 5(2) of the principal Ordinance –

(a) in paragraph (a), between "with" and "regulations", insert "this Ordinance and", and

(b) between paragraphs (a) and (b), insert the following paragraph –

"(aa) must annotate the Register to reflect the Department's approval of any practitioner for the purposes of determining eligibility for benefits under the 1990 Law or eligibility to

free-of-charge access to pathology and radiology diagnostic services provided or controlled by the Department,".

7. In section 9 of the principal Ordinance –

- (a) in subsection (1), after the expression "up-to-date", insert ", and must give effect to any direction of a responsible officer or order of the Registration Panel under this Ordinance", and
- (b) for subsections (2) and (3), substitute the following subsection –

"(2) A responsible officer may give a direction to the Department to annotate the Register as necessary to reflect any decision made by the responsible officer under this Ordinance.".

8. Between Parts II and III of the principal Ordinance, insert the Parts set out in Schedule 3 to this Ordinance.

8A. In section 10 of the principal Ordinance –

- (a) in subsection (6) –
 - (i) insert "and" after the comma at the end of paragraph (b),
 - (ii) in paragraph (c), for ", and" substitute a full stop, and

(iii) repeal paragraph (d), and

(b) for subsection (7), substitute the following subsection –

"(7) A person appointed as a responsible officer must not continue in that office if the General Medical Council has not approved the person for that role within a period of 6 months following the appointment."

8B. In section 11 of the principal Ordinance, for subsection (3), substitute the following subsection –

"(3) The terms and conditions of the appointment of a responsible officer under section 10 are as agreed between the Policy Council and the responsible officer, but no term or condition is to be inconsistent with any provision of Schedule 1 or any other provision of this Ordinance."

9. Immediately after section 15 of the principal Ordinance, insert the section set out in Schedule 4 to this Ordinance.

10. Between sections 20 and 21 of the principal Ordinance, insert the section set out in Schedule 5 to this Ordinance.

11. In section 21 of the principal Ordinance –

(a) in subsection (1)(a), for "1", substitute "1(1)",

(b) in subsection (2), immediately after "subsection (1)" insert "or section 1A(5)", and

- (c) between subsections (2) and (3), insert the following subsection –

"(2A) A person guilty of an offence under section 20A(1) or (2) is liable upon summary conviction or conviction on indictment to a fine not exceeding level 5 on the uniform scale."

12. Between sections 22 and 23 of the principal Ordinance, insert the following section –

"Regulations may amend period for notices, applications, etc.

22A. The Department may at any time by Regulations amend any period for the giving of notices, making of applications, submissions or appeals, or the doing of any other thing, specified in any of the following provisions –

- (a) section 2A(4),
- (b) section 7(2)(a),
- (c) section 9E(1)(b),
- (d) section 9F(2)(a),
- (e) section 9G(3),
- (f) section 9H(4),
- (g) section 9K(3)(a), (4) or (5),

- (h) section 9L(4)(a),
- (i) paragraph 5(2)(a) of Schedule B1,
- (j) paragraph 4(1)(c) or (4)(b)(i) of Schedule C1,
or
- (k) paragraph 3(3)(b) of Schedule 1."

13. In section 23(1) of the principal Ordinance,

- (a) for "a responsible officer", substitute "an empowered person", and
- (b) for "the responsible officer", substitute "the empowered person".

14. In section 26(1) of the principal Ordinance –

- (a) in the definition of "**non-Island responsible officer**" –
 - (i) delete "and" at the end of paragraph (a), and
 - (ii) insert, at the end of paragraph (b), "and" and the following paragraph –
 - "(c) in relation to a person who is applying for registration, means a person who would, if the applicant were registered, be the non-Island responsible officer for that applicant under paragraph (a) or (b) of this definition,"

- (b) in the definition of "**registered practitioner**", immediately after "**registered practitioner**", insert "or **practitioner**",
- (c) in the definition of "**responsible officer**" –
 - (i) delete "and" at the end of paragraph (a), and
 - (ii) insert, between paragraphs (a) and (b), the following paragraph –
 - "(aa) in relation to an application for registration, means the responsible officer appointed under section 10 who would, if the applicant were registered and classified under this Ordinance, be responsible for the relevant class of registered practitioner, and",
- (d) delete "and" immediately before the definition of "**subordinate legislation**", and
- (e) insert in the appropriate alphabetical order the definitions set out in Schedule 6 to this Ordinance.

15. Between sections 26 and 27 of the principal Ordinance, insert the section set out in Schedule 7 to this Ordinance.

16. Immediately before Schedule 1 to the principal Ordinance, insert the schedules set out in Schedule 8 to this Ordinance.

17. In Schedule 4 to the principal Ordinance, in paragraph 4(i)(iv), immediately after "identified,", insert "or if this is not within the control of the designated body, bringing those issues to the attention of the person who can address them,".

18. In Schedule 5 to the principal Ordinance, insert the following rows immediately after the final row of the schedule –

"The Registration Panel or any member of the Panel.	The exercise or performance of any functions under or for the purposes of this Ordinance.
A designated body.	The exercise or performance of any functions under or for the purposes of this Ordinance.
The Social Security Department or the Health Service Advisory Committee	The exercise or performance of any functions under or for the purposes of this Ordinance or the 1990 Law.
Any body, agency or officer with the function of regulating medical practitioners anywhere in the world.	The exercise or performance of any functions of the body, agency or officer under any relevant foreign enactment."

Interpretation.

19. (1) In this Ordinance, unless the context requires otherwise, "**the principal Ordinance**" means the Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) Ordinance, 2015^d.

^d Ordinance No. XXII of 2015.

(2) Any reference in this Ordinance to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Consequential amendments.

20. Section 39(1) of the Health Service (Benefit) (Guernsey) Law, 1990^e is amended by substituting, for the definitions of "**approved medical practitioner**" and "**medical practitioner**", the following definitions respectively –

"**approved medical practitioner**" means a medical practitioner who –

- (a) has been approved by the Health and Social Services Department for the purposes of determining eligibility for benefits under this Law, and
- (b) whose entry in the Register maintained under the Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) Ordinance, 2015 has been annotated to reflect such approval," and

^e Ordres en Conseil Vol. XXXII, p. 192; Vol. XLIII(1), p. 246; Order in Council No. II of 2011; Recueil d'Ordonnances Tome XXVI, pp. 177, 483, and 495; Tome XXIX, pp. 182, 373, 406 and 580 and modified by Tome XXVI, pp. 484 and 491 and 495; Tome XXVII, p. 200; Tome XXVIII, p. 1; Tome XXIX, pp. 182, 196, 200 and 210; Tome XXXI, p. 628 and Tome XXXII, p. 628 and Ordinance No. XXXIV of 2013. Extended to Alderney with modification by Recueil d'Ordonnances Tome XXV, p. 204.

"**medical practitioner**" means a registered practitioner within the meaning given by section 26(1) of the Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) Ordinance, 2015,".

Extent and application to Alderney.

21. This Ordinance has effect in Guernsey, Herm, Jethou and Alderney.

Citation.

22. This Ordinance may be cited as the Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) (Amendment) Ordinance, 2015.

Commencement.

23. This Ordinance shall come into force on a date specified by regulation made by the Department.

SCHEDULE 1

SECTIONS REPLACING SECTION 1 OF THE PRINCIPAL ORDINANCE

Section 2

"Medical practitioners to be licensed and registered."

1. (1) Subject to subsection (2), a person must not practise as a medical practitioner in the Island unless the person satisfies the following conditions–

- (a) the person is fully registered in the UK register, and the person's registration in that register is not suspended,
- (b) the person holds a licence to practise granted under the 1983 Act, and
- (c) the person is registered as a medical practitioner in the Register.

(2) Despite subsection (1)(c), a person may practise as a medical practitioner in the Island even if the person is not registered as a medical practitioner in the Register if –

- (a) the person satisfies the conditions in subsection (1)(a) and (b),
- (b) the person has not practised and does not practise as a medical practitioner in the Island on any more than 5 days in aggregate in any calendar year, and
- (c) if required by regulations made by the Department, the

person has given written notice to the Department in accordance with those regulations, of his or her practise or intention to practise as a medical practitioner in the Island.

(3) In this section –

"practise as a medical practitioner" includes the following –

- (a) signing any medical certificate required for the purpose of any enactment in force in the Island,
- (b) giving a prescription for, administering or giving directions for the administration of any medicinal product of a description, or falling within a class, specified in section 2 of the Prescription Only Medicines (Human) (Bailiwick of Guernsey) Ordinance, 2009, except to the extent authorised or permitted by the Medicines (Human and Veterinary) (Bailiwick of Guernsey) Law, 2008 or any enactment or subordinate legislation made under that Law,
- (c) advertising, holding out to the public, or representing in any manner that one is authorised to provide professional medical services or otherwise practise as a medical practitioner in the Island,
- (d) providing professional medical services to which members of the public or any section of the public have access, whether on payment or otherwise, and

- (e) offering, advertising or holding out to members of the public or any section of the public, professional medical services, whether for payment or not, and

"**professional medical services**" means services in relation to assessing, diagnosing, treating, reporting or giving advice in a medical capacity, using knowledge, skills, attitudes and competence initially attained for a bachelor of medicine (or equivalent) and built upon in any postgraduate or continuing medical education.

(4) In determining whether or not a person is practising as a medical practitioner, any guidance given by the General Medical Council, including Good Medical Practice and guidance on fitness to practise procedures, may be taken into account.

Wilful or false representations, descriptions, etc.

1A. (1) A person must not wilfully and falsely –

- (a) pretend to be,
- (b) expressly or by implication hold himself or herself out to the public to be, or
- (c) represent in any manner that the person is,

a medical doctor.

(2) A person must not falsely describe himself or herself by any name, title or expression that can be reasonably taken as implying that –

- (a) the person is any kind of medical doctor,

- (b) the person is registered in the UK register, or that the person's registration in that register is not suspended,
- (c) the person is registered as a medical practitioner in the Register, or that the person's registration as a medical practitioner in that register is not suspended, or
- (d) the person holds a licence to practise granted under the 1983 Act.

(3) A person ("A") must not wilfully cause or permit another person ("B") to make any kind of representation about A, that A would be prohibited from making under subsection (1) or (2).

(4) A person ("A") must not make, with regard to another person ("B"), any representation that –

- (a) A knows to be false, and
- (b) B would be prohibited from making under subsection (1) or (2).

(5) A person who contravenes subsection (1), (2), (3) or (4) is guilty of an offence.

(6) In this section, "**medical doctor**" means physician, doctor of medicine, licentiate in medicine and surgery, bachelor of medicine, surgeon or general practitioner."

SCHEDULE 2
SECTIONS TO BE INSERTED BETWEEN SECTIONS 2 AND 3 OF THE
PRINCIPAL ORDINANCE

Section 4

"Deferral of decision on registration.

2A. (1) The Department may, in consultation with the responsible officer, defer either or both its decisions under section 2(3) or (4) where, in its opinion –

- (a) there are in respect of the applicant –
 - (i) criminal proceedings in the British Islands, or
 - (ii) proceedings elsewhere in the world in respect of acts or omissions which, if they had occurred in the Island (within the meaning given by section 26(1)), would constitute a criminal offence,

and which, if such proceedings resulted in a conviction, or the equivalent of a conviction would, if the applicant were at that time registered, lead, or be likely, to lead to that applicant's removal from the Register,
- (b) there is any investigation by any body anywhere in the world relating to the applicant which, if the outcome of the investigation was adverse to the applicant and the applicant were at that time registered under this Ordinance, would lead or be likely to lead to that applicant's removal from the list,

- (c) the applicant is suspended from a medical practitioners list,
- (d) the applicant has appealed against a decision –
 - (i) to refuse to include the applicant in a medical practitioners list,
 - (ii) to include the applicant in a medical practitioners list subject to conditions, or
 - (iii) to remove the applicant from a medical practitioners list,

and, if the appeal against the decision was unsuccessful and the applicant were at that time included in the medical practitioners list, would or would be likely to lead to that applicant's removal from that list.

(2) The Department must give the applicant written notice of any deferral under subsection (1), including the reasons for the deferral and a copy of section 9K of this Ordinance.

(3) A decision may be deferred under subsection (1) only until the outcome of the matter in question, or, if there is more than one matter, the outcome of the last of these matters, is known.

(4) Once the outcome of the matter or the last of these matters is known, the Department must notify the applicant that the applicant must, within 28 days of the notification –

- (a) confirm, in writing, whether the applicant wishes to proceed with the application, and
- (b) if the applicant wishes to proceed, provide any additional information required by the responsible officer.

(5) If an applicant, in accordance with subsection (3), confirms the applicant's wish to proceed and provides the additional information required, the application must be determined in accordance with this Ordinance.

Mandatory grounds for refusal of application.

2B. An application for registration must be refused if –

- (a) the practitioner does not satisfy any condition in section 1(a) or (b),
- (b) the applicant is subject to a national disqualification for inclusion in a medical practitioners list,
- (c) the applicant has been convicted of murder by any court in the British Islands,
- (d) in a case where the applicant's application was deferred under section 2A, the applicant has not updated that application, or
- (e) in a case where additional conditions are to be imposed on the applicant's registration under section 2D, the applicant has not given notice that the applicant wishes

to be registered subject to those conditions.

Discretionary grounds for refusal of application.

2C. (1) The Registration Panel may refuse an application for registration if –

- (a) the applicant's registration in the UK register is subject to conditions imposed by an interim order made under section 41A of the 1983 Act,
- (b) the applicant's registration in the UK register is subject to conditions by virtue of a direction given under section 35D of the 1983 Act,
- (c) the applicant's registration in the UK register is subject to conditions by virtue of a direction given under rules made under paragraph 5A(3) of Schedule 4 to the 1983 Act,
- (d) the applicant has not provided satisfactory evidence that that applicant will be practising as a medical practitioner in the Island within the next 12 months,
- (e) in the Panel's opinion, the references obtained from the referees named by the applicant in the application are unsatisfactory,
- (f) in the Panel's opinion, having regard to any information provided by the Social Security Department, the Health Service Advisory Committee, or any other body in the British Islands in relation to

any past or current fraud investigation involving or relating to the applicant, and any other information in the Panel's possession relating to the applicant, the applicant is unsuitable to be registered,

- (g) in the Panel's opinion, there are reasonable grounds for concluding that the registration of the applicant would be prejudicial to the efficiency of the provision of publicly-funded services,
- (h) the Panel is not satisfied that the applicant has sufficient knowledge of the English language necessary to practise as a medical practitioner in the Island, or
- (i) the Panel considers the applicant unsuitable for registration for any other reason, having considered the information provided by the applicant under section 2(2).

(2) Where the Panel is considering a refusal of an application on a ground specified in subsection (1), it must, in particular, take into consideration –

- (a) the recommendation made by the Department under section 2(5),
- (b) the nature of any matter in question, and the facts giving rise to the matter,
- (c) the length of time since that matter and since any investigation into it was concluded

- (d) any action taken or penalty imposed by the Social Security Department or the Health Service Advisory Committee under the 1990 Law, or by any other body, including the police or courts, as a result of the matter,
- (e) the relevance of the matter to the applicant's provision of any publicly-funded services, and the likely risk to the applicant's patients or to the Fund or public finances,
- (f) whether any offence of which the applicant has been convicted, or for which the applicant is being investigated or has been charged, is an offence to which the Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2013 applies by virtue of section 1 of that Law or, if it had been committed in the Bailiwick of Guernsey, would have been such an offence, and
- (g) whether, in respect of the Register or any medical practitioners list, the applicant –
 - (i) has been refused registration or inclusion in the list,
 - (ii) has been registered or included in the list subject to, in the case of the Register, additional conditions or, in the case of a medical practitioners list, any conditions,
 - (iii) has been removed from the Register or list, or

(iv) is currently suspended from the Register or list,

and, if so, the facts relating to the matter which led to such action, together with any reasons given for the action by the person who took the action.

(3) If the Panel decides to refuse an application for registration, it must –

(a) give the applicant written notice of the refusal, including the reasons for it and a copy of section 9L of this Ordinance, and

(b) give the Department a copy of the notice.

(4) If the Panel decides not to refuse an application for registration, the Panel must refer the application to the responsible officer.

Responsible officer may impose additional conditions.

2D. (1) Where an application for registration is referred to the responsible officer under section 2(4)(c) or 2C(4), the responsible officer may specify that the applicant's registration should be subject to additional conditions, by –

(a) giving the applicant written notice of those additional conditions, including the reasons for those conditions and a copy of this section and section 9K of this Ordinance, and

(b) giving the Department a copy of the notice.

(2) Conditions may be specified under subsection (1) for all or any of the following purposes –

- (a) protecting patients,
- (b) preserving the Fund or public finances,
- (c) preventing any prejudice to the efficiency of the provision of publicly-funded services, and
- (d) for the purpose of preventing fraud.

(3) Conditions may be specified to apply indefinitely or until any action required by the condition, such as training, retraining, rehabilitation or experience in practice, is completed.

(4) An applicant notified of additional conditions under subsection (1) may, by written notification to the Department, agree to being registered subject to those conditions.

(5) For the avoidance of doubt, conditions imposed under this section may include or reflect –

- (a) any condition of a kind described in section 2C(1)(a), (b) or (c),
- (b) any condition or undertaking imposed on or in relation to the practitioner by the General Medical Council, and
- (c) any undertaking given by the practitioner to the General Medical Council.

Registration.

2E. (1) This section applies in relation to an application for registration where –

(a) the Department has decided that no mandatory grounds for refusal applies to the application, and

(b) either –

(i) the Department has decided that, in its opinion, none of the discretionary grounds for refusal applies or is likely to apply, to the application, or

(ii) the Department has referred the application to the Registration Panel under section 2(5), but the Panel has decided not to refuse that application.

(2) Where this section applies, the Department must register the applicant as a medical practitioner in accordance with subsection (3), subject to any additional conditions.

(3) A registration is effected by the Department –

(a) entering the prescribed information in the Register, and

(b) giving the practitioner written notice of the registration, including the additional conditions.

Practitioners to comply with general conditions and additional conditions.

2F. A registered practitioner must comply with –

- (a) the general conditions in Schedule A1, and
- (b) any additional conditions."

SCHEDULE 3

PARTS TO BE INSERTED BETWEEN PARTS II AND III OF THE PRINCIPAL
ORDINANCE

Section 8

"PART IIA
CONCERNS**Concerns to be referred to responsible officer.**

9A. (1) This section applies where a concern about any registered practitioner comes to the attention of any of the following persons ("**the person concerned**") –

- (a) any practitioner,
- (b) any designated body,
- (c) the Department, or
- (d) the Social Security Department or the Health Service Advisory Committee.

(2) Where this section applies, the person concerned must refer the concern to the responsible officer for the practitioner concerned, as soon as practicable.

(3) The responsible officer for the practitioner concerned may, at any time, by written notice given to any person specified in subsection (1)(a) to (d), require the person to report to the responsible officer, within a time specified in the notice, on –

- (a) any investigation into the concern conducted by or on behalf of that person,
- (b) any findings made by that person, or notified to that person, in relation to the concern, or
- (c) any other actions taken by or on behalf of that person to address the concern.

Preliminary assessment of concerns by responsible officer.

9B. A responsible officer must assess whether any concern about the practitioner identified by or referred to the responsible officer raises or may raise a substantive issue, being an issue –

- (a) regarding the practitioner's eligibility or suitability for registration,
- (b) regarding the practitioner's compliance with the general conditions and any additional conditions,
- (c) that must be referred to the Social Security Department or General Medical Council under section 9G, or
- (d) regarding the practitioner's fitness to practise.

Decision that concern does not raise a substantive issue.

9C. If a responsible officer decides that a concern does not raise a substantive issue, the responsible officer –

- (a) must inform the person who raised the concern of that decision, and

- (b) may inform the practitioner of that decision.

Informal resolution of concern that does not raise a substantive issue.

9D. If a responsible officer decides that a concern does not raise a substantive issue, the responsible officer may seek to informally resolve the concern with the agreement of the person who raised the concern and the practitioner.

Notification and investigation of concern that raises or may raise a substantive issue.

9E. (1) If a responsible officer's assessment is that a concern raises or may raise a substantive issue in relation to a practitioner, the responsible officer must –

- (a) subject to section 9G, refer the concern to an authorised person, and
- (b) give the practitioner written notice of the referral within 7 days of that referral.

(2) The authorised person must –

- (a) investigate the facts to which the concern relates, and
- (b) report the authorised person's findings, and pass any information obtained under subsection (3), to the responsible officer.

(3) An authorised person may, for the purposes of an investigation under this section, exercise any powers of a responsible officer under this Ordinance.

(4) In this section, "**authorised person**" means a person authorised by the responsible officer to investigate a concern.

Decision by responsible officer in respect of concern.

9F. (1) Upon receiving an authorised person's report of the findings of an investigation under section 9E(2)(c), the responsible officer must decide whether or not the concern investigated has raised a substantive issue.

(2) If the responsible officer decides that the concern has not raised a substantive issue, the responsible officer –

(a) must inform the practitioner within 7 days of that decision, and

(b) must –

(i) take no further action in respect of the concern,
or

(ii) seek to resolve it informally with the agreement of the person who raised the concern and the practitioner.

(3) If the responsible officer decides that the concern has raised a substantive issue, the responsible officer must decide whether to take any action under section 9H or Schedule B1.

Referral of concerns to Social Security Department or General Medical Council.

9G. (1) If, at any time, it appears to a responsible officer or the Panel that a concern raises or may raise grounds to suspect that a practitioner has, by the practitioner's conduct, prejudiced the efficient administration of the 1990 Law or created an unreasonable charge on the Fund, the responsible officer or (as the case may be) the Panel must refer the issue to the Social Security Department.

(2) If, at any time, it appears to a responsible officer or the Panel that a concern raises an issue regarding a practitioner's fitness to practise that is appropriate to refer to the General Medical Council, the responsible officer or (as the case may be) the Panel must refer the issue to the General Medical Council.

(3) The responsible officer or (as the case may be) the Panel must notify the practitioner in writing of a referral under this section within 7 days of the referral being made.

Resolution notices.

9H. (1) This section applies where –

- (a) a responsible officer has decided under section 9F that a concern has raised a substantive issue, and
- (b) the responsible officer is of the opinion that –
 - (i) none of the mandatory grounds for removal applies, and
 - (ii) there is no or little risk that the practitioner's fitness to practise is impaired.

(2) Where this section applies, the responsible officer may serve a resolution notice on the practitioner setting out actions, changes and any other steps required to be undertaken by that practitioner, and the time or times by which they must be undertaken, in order to address the issues raised by the concern and any other issues identified in the course of the investigation conducted under section 9E.

(3) A resolution notice may include actions and steps initiated by the responsible officer, for example, arrangements by the responsible officer for the practitioner's clinical practice to be assessed by a person or body considered by the responsible officer to be competent to undertake such assessments.

(4) The practitioner must notify the responsible officer of the practitioner's acceptance or rejection of the resolution notice no later than 14 days after it is served.

(5) A practitioner who does not give notice in accordance with subsection (4) is to be taken as having rejected the resolution notice.

(6) If the practitioner accepts the resolution notice and completes the actions, changes and other steps set out in that notice within the time specified, the concern is to be taken as resolved.

(7) If –

- (a) the practitioner accepts the resolution notice but does not complete the actions, changes and other steps required of the practitioner within the time specified, or

(b) the practitioner rejects the resolution notice,

the concern is not to be taken to have been resolved and the responsible officer must decide whether to take any action under Schedule B1.

Schedules B1 and C1 to have effect.

9I. Schedules B1 and C1 have effect.

PART IIB
REGISTRATION PANEL

Registration Panel.

9J. (1) The Policy Council is to establish and appoint the Chairman and other members of the Registration Panel on the recommendation of the Department, for the purposes of this Ordinance and in accordance with Schedule D1.

(2) The Panel has the functions conferred on it by this Ordinance.

(3) Schedule D1 has effect in relation to the Panel and its members.

PART IIC
REVIEWS AND APPEALS

Review of registration-related decisions of responsible officer.

9K. (1) This section applies to reviewable decisions, being any of the following –

- (a) a decision of the Department under section 2A(1) to defer a decision on an application for registration,
- (b) a decision of a responsible officer to specify additional conditions under section 2D(1), if the practitioner has agreed under section 2D(4) to be registered subject to those conditions,
- (c) a decision of a responsible officer to vary additional conditions or impose further additional conditions on the registration of a practitioner under paragraph 2 of Schedule B1,
- (d) a decision of a responsible officer to suspend the registration of a practitioner under paragraph 3 of Schedule B1, or
- (e) a decision of a responsible officer to extend the initial or additional period of a suspension under paragraph 6(4) of Schedule B1.

(2) The following persons may apply to the Registration Panel to review a reviewable decision in accordance with this section –

- (a) in relation to a decision mentioned in subsection (1)(a), the applicant for registration, and
- (b) in relation to any other reviewable decision, the practitioner concerned.

(3) An application for review must be made –

- (a) within 14 days of the applicant for review being given written notice of the reviewable decision,
- (b) in the form and manner specified by the Panel and must include any information which the applicant for review believes would assist the applicant's case, and
- (c) by giving written notice of it to the decision-maker.

(4) Within 14 days of being given written notice of an application for review or within any further period allowed by the Panel in its sole discretion, the decision-maker must respond in writing to the Panel with any information which that decision-maker believes the Panel should consider.

(5) Within 14 days of receiving the written response from the decision-maker, the Panel must –

- (a) consider any information submitted under subsection (3) or (4) and take into account any other information the Panel considers relevant,
- (b) hear any oral submissions that the applicant for review or the decision-maker wishes to make to the Panel,
- (c) determine the application by –
 - (i) confirming or varying the decision under review, or

- (ii) revoking the decision under review, and, if the Panel considers it appropriate, substituting that decision with a decision made by the Panel, and
 - (d) give the applicant for review and the decision-maker written notice of the Panel's determination of the review under paragraph (c), including the reasons for it and a copy of section 9L of this Ordinance.
- (6) In determining an application for review, the Panel –
 - (a) may make any decision that the decision-maker is authorised to make under this Ordinance, and
 - (b) if the Panel considers it appropriate to give effect to its decision, may give any order it considers appropriate to –
 - (i) the decision-maker, and
 - (ii) if the decision-maker is not the Department, the Department.
- (7) A determination made by the Panel under subsection (5)(c) has effect as if made by the decision-maker under this Ordinance, but the decision is not a reviewable decision for the purposes of this section.
- (8) Pending determination of a review, on application by the applicant for review, the Panel may in exceptional circumstances and on such terms as it considers appropriate suspend or modify the effect of the decision under review by giving any order it considers appropriate to the decision-maker and, if the

decision-maker is not the Department, the Department.

(9) In this section –

"**decision-maker**", in relation to a reviewable decision, means the person who or that made the decision, and

"**reviewable decision**" means a decision to which this section applies.

Appeal to relevant Court.

9L. (1) This section applies to appealable decisions, being –

- (a) a refusal of an application for registration under section 2(3)(b) or 2C,
- (b) an order under paragraph 6(7) of Schedule B1 to extend any period of suspension of the registration of a practitioner,
- (c) a decision under paragraph 2 of Schedule C1 to remove a practitioner from the Register, and
- (d) a determination under section 9K(5)(c) following a review.

(2) The following persons may appeal an appealable decision to the relevant Court in accordance with this section –

- (a) in relation to a decision mentioned in subsection (1)(a), the applicant,

- (b) in relation to an order or decision mentioned in subsection (1)(b) or (c), the practitioner concerned, and
 - (c) in relation to a determination mentioned in subsection (1)(d), the person whose application for review was determined.
- (3) The grounds of an appeal are that –
- (a) the decision was ultra vires or there was some other error of law,
 - (b) the decision was unreasonable,
 - (c) the decision was made in bad faith,
 - (d) there was a lack of proportionality, or
 - (e) there was a material error as to the facts or as to the procedure.
- (4) An appeal must be made –
- (a) within the period of 28 days immediately following the date on which the appellant received written notice of the appealable decision, and
 - (b) by summons served on the decision-maker, stating the grounds and material facts on which the appellant

relies.

(5) Where an appeal has been made, the decision-maker may apply to the relevant Court, by summons served on the appellant, for an order to dismiss the appeal for want of prosecution; and on hearing the application the court may –

- (a) dismiss the appeal or dismiss the application (in either case with such directions as the court thinks fit), or
- (b) make such other order as the court considers just.

(6) The provisions of subsection (5) are without prejudice to the inherent powers of the relevant Court or to the rules of the relevant Court.

(7) On an appeal, the relevant Court may –

- (a) set the appealable decision aside in whole or in part and remit that decision to the decision-maker with such directions as the court thinks fit, or
- (b) confirm the appealable decision, in whole or in part.

(8) On the application of the appellant, the relevant Court may suspend or modify the effect of the appealable decision with such directions as the court thinks just, pending the determination of the appeal.

(9) An appeal from a decision of the relevant Court under this section, on a question of law, lies –

- (a) where the relevant Court is the Royal Court, to the

Court of Appeal, and

- (b) where the relevant Court is the Court of Alderney, to the Royal Court.

- (10) In this section –

"appealable decision" means any decision to which this section applies,

"decision-maker", in relation to an appealable decision, means the person who or that made the decision, and

"relevant Court" –

- (a) in relation to Guernsey, means the Royal Court,
- (b) in relation to Alderney, means the Court of Alderney."

SCHEDULE 4

SECTION TO BE INSERTED IMMEDIATELY AFTER SECTION 15 OF THE
PRINCIPAL ORDINANCE

Section 9

"Application of certain provisions where a responsible officer is the applicant or the practitioner concerned.

15A. (1) Despite any other provision to the contrary in this Ordinance, where an application for registration is made by a responsible officer or a person who is designated to be appointed as a responsible officer (subject to registration) –

- (a) sections 2(4)(c) and (7), 2A(1) and 2C(4) have effect as if a reference to a responsible officer of any kind or description in those provisions were a reference to the Panel (acting in consultation with the General Medical Council or the non-Island responsible officer for the applicant),
- (b) section 2D(1) has effect as if –
 - (i) the reference to the responsible officer in that provision were a reference to the Panel (acting in consultation with the General Medical Council or the non-Island responsible officer for the applicant), and
 - (ii) the reference to a copy of section 9K of this Ordinance were a reference to a copy of sections 9L and 15A of this Ordinance,

- (c) section 9L applies to a decision of the Panel (acting in consultation with the General Medical Council or the non-Island responsible officer for the applicant) to specify additional conditions under section 2D(1), if the practitioner has agreed under section 2D(4) to be registered subject to those conditions, as if the Panel's decision were an appealable decision under section 9L and the applicant were entitled to appeal the Panel's decision under that section, and
- (d) for the avoidance of doubt, section 9K does not apply to a decision of the Panel of the kind described in paragraph (c).

(2) Despite any other provision to the contrary in this Ordinance, where the registered practitioner to whom a concern relates is a responsible officer—

- (a) sections 9A to 9H have effect as if a reference to a responsible officer of any kind or description in those provisions were a reference to the Panel (acting in consultation with the General Medical Council or the non-Island responsible officer for the applicant),
- (b) Schedule B1 has effect as if –
 - (i) a reference to a responsible officer of any kind or description in the schedule were a reference to the Panel (acting in consultation with the General Medical Council or the non-Island responsible officer for the practitioner concerned),

- (ii) in paragraphs 2(a), 3(2)(a) and 6(4)(a) of the schedule, a reference to a copy of section 9K of this Ordinance were a reference to a copy of sections 9L and 15A of this Ordinance,
 - (iii) paragraph 6(5), (6) and (10) and paragraph 8 of the schedule were deleted,
 - (iv) in paragraph 6(7) of the schedule, "hearing an application under subparagraph (5)" were deleted,
 - (v) in paragraph 6(9) of the schedule, a reference to a copy of section 9L of this Ordinance were a reference to a copy of sections 9L and 15A of this Ordinance,
- (c) paragraph 5 of Schedule C1 has effect as if the reference to the responsible officer in that paragraph were a reference to the General Medical Council or the non-Island responsible officer for the practitioner concerned,
- (d) section 9L applies to a decision of the Panel (acting in consultation with the General Medical Council or the non-Island responsible officer for the practitioner concerned) –
- (i) to vary additional conditions or impose further additional conditions on the registration of a

practitioner under paragraph 2 of Schedule B1,

- (ii) to suspend the registration of a practitioner under paragraph 3 of Schedule B1, or
- (iii) to extend the initial or additional period of a suspension under paragraph 6(4) of Schedule B1,

as if the Panel's decision were an appealable decision under section 9L, and the practitioner concerned were entitled to appeal that decision under that section,

- (e) for the avoidance of doubt, section 9K does not apply to a decision of the Panel of the kind described in paragraph (d), and
- (f) sections 13 to 15 have effect as if a reference to a responsible officer of any kind or description in those provisions is a reference to the Panel or any person authorised by the Panel to investigate a concern about a responsible officer."

SCHEDULE 5

SECTION TO BE INSERTED BETWEEN SECTIONS 20 AND 21 OF THE
PRINCIPAL ORDINANCE

Section 10

"Obstruction, etc. or provision of false, deceptive or misleading information."

- 20A. (1) A person is guilty of an offence who –
- (a) intentionally obstructs an empowered person who is acting in the exercise of the empowered person's functions under this Ordinance, or
 - (b) without reasonable cause fails to comply with any requirement made by an empowered person who is acting in the exercise of the empowered person's functions under this Ordinance.
- (2) A person is guilty of an offence if –
- (a) for the purposes of or in connection with an application made under this Ordinance,
 - (b) in purported compliance with any general condition or additional condition,
 - (c) in purported compliance with any requirement imposed under, or otherwise for the purposes of, this Ordinance, or
 - (d) otherwise than as mentioned in paragraphs (a) to (c) but in circumstances in which the person intends, or

could reasonably be expected to know, that the information would or might be used by any person for the purpose of exercising that person's functions under this Ordinance,

the person does any of the following –

- (i) makes a statement which that person knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular,
- (ii) recklessly makes a statement, dishonestly or otherwise, which is false, deceptive or misleading in a material particular,
- (iii) produces or furnishes, or causes or permits to be produced or furnished, any information which that person knows or has reasonable cause to believe to be false, deceptive or misleading in a material particular, or
- (iv) recklessly produces or furnishes or recklessly causes or permits to be produced or furnished, dishonestly or otherwise, any information which is false, deceptive or misleading in a material particular."

SCHEDULE 6

DEFINITIONS TO BE INSERTED IN SECTION 26(1) OF THE PRINCIPAL
ORDINANCE

Section 14(e)

"1990 Law" means the Health Service (Benefit) (Guernsey) Law, 1990,

"additional conditions", in relation to a practitioner, means conditions on the registration of the practitioner, other than the general conditions, specified by a responsible officer and agreed to by the practitioner under section 2D(4),

"benefit" means any category of benefit specified in section 4 of the 1990 Law,

"body" includes any agency or any holder of a public office,

"concern", in relation to any practitioner, is any concern, allegation or complaint regarding the practitioner that has been raised by any person (including a person specified in section 9A(1)),

"discretionary grounds for refusal" means the grounds specified in section 2C for discretionary refusal of an application for registration,

"discretionary grounds for removal" means the grounds specified in paragraph 2(1) or (2) of Schedule C1 for discretionary removal of a practitioner from the Register,

"empowered person" means –

- (a) a responsible officer,

- (b) an authorised person, or
- (c) the Panel or any member of it,

"**enhanced criminal record certificate**" means such a certificate issued under section 113B of the Police Act 1997 as extended to the Bailiwick of Guernsey, with modifications, by the Police Act 1997 (Criminal Records) (Guernsey) Order 2009,

"**the Fund**" means the Guernsey Health Service Fund continued by the 1990 Law,

"**general conditions**" means the conditions in Schedule A1,

"**mandatory grounds for refusal**" means the grounds specified in section 2B for mandatory refusal of an application for registration,

"**mandatory grounds for removal**" means the grounds specified in paragraph 1 of Schedule C1 for mandatory removal of a practitioner from the Register,

"**medical practitioners list**" means a list of medical practitioners maintained under regulations made under –

- (a) section 91 of the National Health Service Act 2006,
- (b) section 17P of the National Health Service (Scotland) Act 1978,
- (c) section 49 of the National Health Service (Wales) Act 2006,
or

- (d) article 57G of the Health and Personal Social Services (Northern Ireland) Order 1972,

"**national disqualification**" means national disqualification imposed under section 159 of the National Health Service Act 2006,

"**publicly-funded services**" means professional medical services (within the meaning given by section 1(3)) –

- (a) provided under any contract or agreement with any Authority, Board, Committee, Council or Department of the States of Guernsey or States of Alderney, or
- (b) in relation to which any benefit is payable,

"**Registration Panel**" or "**Panel**" means the panel appointed under section 9J,

"**resolution notice**" means a resolution notice served under section 9H, and

"**UK register**" means the register of medical practitioners kept under the 1983 Act."

SCHEDULE 7

SECTION TO BE INSERTED BETWEEN SECTIONS 26 AND 27 OF THE
PRINCIPAL ORDINANCE

Section 15

"Index of defined expressions."

26A. In this Ordinance, the expressions listed below are defined by the provisions specified –

Expression	Interpretation provision
1983 Act	Section 26(1)
1990 Law	Section 26(1)
Additional conditions	Section 26(1)
Annual charge	Section 26(1)
Appealable decision	Section 9L(10)
Authorised person	Section 9E(4)
The Bailiff	Section 26(1)
Benefit	Section 26(1)
Body	Section 26(1)
Class	Section 26(1)
Commencement date	Paragraph 1 of Schedule 7
Concern	Section 26(1)
Decision-maker	Sections 9K(9) and 9L(10)
Department	Section 26(1)
Designated body	Section 26(1); paragraph 1 of Schedule 4
Discretionary grounds for	Section 26(1)

Expression	Interpretation provision
refusal	
Discretionary grounds for removal	Section 26(1)
Empowered person	Section 26(1)
Enactment	Section 26(1)
Enhanced criminal record certificate	Section 26(1)
Existing medical practitioner	Paragraph 1 of Schedule 7
Foundation official	Section 26(1)
The Fund	Section 26(1)
Function	Section 26(1)
General conditions	Section 26(1)
General Medical Council	Section 26(1)
Information	Section 26(1)
Island	Section 26(1)
Last application date	Paragraph 1 of Schedule 7
Legally-qualified person	Paragraph 10 of Schedule D1
Mandatory grounds for refusal	Section 26(1)
Mandatory grounds for removal	Section 26(1)
Medical doctor	Section 1A(6)
Medical practitioners list	Section 26(1)
National disqualification	Section 26(1)
Non-Island responsible	Section 26(1)

Expression	Interpretation provision
officer	
This Ordinance	Section 26(1)
Panel	Section 26(1)
Practise as a medical practitioner	Section 1(3)
Practitioner	Section 26(1); paragraph 1 of Schedule 2; paragraph 1 of Schedule 3; paragraph 1 of Schedule 4
Prescribed	Section 26(1)
Professional medical services	Section 1(3)
Publicly-funded services	Section 26(1)
The Register	Section 26(1)
Register	Section 26(1)
Register information	Section 26(1)
Registered practitioner	Section 26(1)
Registration Panel	Section 26(1)
Relevant body or officer	Section 26(1)
Relevant Court	Section 9L(10)
Relevant foreign enactment	Section 26(1)
Relevant purpose	Section 26(1)
Resolution notice	Section 26(1)
Responsible officer	Section 26(1); paragraph 1 of Schedule 2; paragraph 1 of Schedule 3
Reviewable decision	Section 9K(9)
Subordinate legislation	Section 26(1)

Expression	Interpretation provision
UK register	Section 26(1)"

SCHEDULE 8

SCHEDULES TO BE INSERTED IMMEDIATELY BEFORE SCHEDULE 1 TO
THE PRINCIPAL ORDINANCE

Section 16

"SCHEDULE A1

GENERAL CONDITIONS APPLICABLE TO ALL PRACTITIONERS

Section 2F

1. **Conduct.**

- (1) A practitioner must follow guidance published by the General Medical Council regarding good medical practice.
- (2) A practitioner must, if requested by the responsible officer for that practitioner or the Registration Panel, provide an enhanced criminal record certificate issued within such period as is specified in the request.
- (3) The responsible officer or Panel must have reasonable cause for making a request under subparagraph (2).

2. **Appraisals.**

- (1) A practitioner must participate in appropriate and relevant appraisal procedures.
- (2) The appraisals required by subparagraph (1) must involve obtaining and taking account of all available information relating to the practitioner's fitness to practise in the work carried out by the practitioner in his or her practise as medical practitioner during the appraisal period.

- (3) An appraisal of a practitioner and any information taken into account in the conduct of the appraisal must be submitted to the responsible officer for the practitioner.

3. **Assessments.**

- (1) A practitioner must, if requested by the responsible officer for the practitioner or the Registration Panel, take part in an assessment of the practitioner's knowledge of English.
- (2) A practitioner must, if requested by the responsible officer for the practitioner or the Panel, co-operate with an assessment by a body or organisation assigned by the responsible officer or the Panel to assess the practitioner's clinical skills and performance.
- (3) The responsible officer or Panel must have reasonable cause for making a request under subparagraph (2) or (3).

SCHEDULE B1

POWERS OF RESPONSIBLE OFFICER FOLLOWING INVESTIGATION
OF CONCERNS

Sections 9F(3), 9H(7) and 9I

1. **Application of this Schedule.**

This schedule applies where a responsible officer decides that a concern investigated under section 9E has raised a substantive issue, unless –

- (a) a resolution notice is served, and
- (b) the concern is taken as resolved under section 9H.

2. **Failure to comply with conditions.**

If a responsible officer determines that a practitioner has failed to comply with general conditions or additional conditions of the practitioner's registration, the responsible officer may vary all or any of those additional conditions, or impose further additional conditions on that registration, by -

- (a) giving the practitioner written notice of the variation or those further additional conditions, including the reasons for that variation or those further additional conditions and a copy of section 9K of this Ordinance, and
- (b) giving the Department a copy of the notice.

3. **Discretionary suspension from register.**

(1) Subject to paragraphs 4 and 5, if a responsible officer is satisfied that it is necessary to do so for the protection of patients or members of the public or that it is otherwise in the public interest, the responsible officer may suspend a practitioner's registration –

- (a) whilst the responsible officer decides whether or not to exercise the responsible officer's powers under this Ordinance to remove the practitioner from the Register,
- (b) whilst the responsible officer awaits –
 - (i) the outcome of any criminal or regulatory investigation affecting the practitioner, or
 - (ii) a decision of a court or regulatory body, anywhere in the world, affecting the practitioner,

- (c) where the responsible officer has decided to exercise the responsible officer's powers under this Ordinance to remove the practitioner from the Register, but before that decision takes effect, or
 - (d) pending a review or appeal under this Ordinance.
- (2) A suspension under paragraph (1) is effected by the responsible officer –
- (a) giving the practitioner written notice of the suspension, including the reasons for the suspension and a copy of section 9K of this Ordinance, and
 - (b) giving the Department a copy of the notice.

4. **Process for suspension.**

- (1) Where a responsible officer is considering suspending a practitioner's registration under paragraph 3, the responsible officer must give the practitioner –
- (a) notice of any concern regarding the practitioner that the responsible officer is taking into consideration,
 - (b) notice of what action the responsible officer is considering, and on what grounds, and
 - (c) the opportunity for the practitioner to put the practitioner's case in writing to the responsible officer, by a specified time on a specified day.

- (2) The day specified for the purposes of subparagraph (1)(c) must be at least 2 working days after the day on which the notice is given.
- (3) If the practitioner does not wish to put the practitioner's case in writing to the responsible officer, or does not do so by the time specified, the responsible officer may suspend the practitioner with immediate effect.
- (4) If the practitioner puts the practitioner's case in writing to the responsible officer, the responsible officer –
 - (a) must, when making a decision, take into account the practitioner's representations, and
 - (b) may decide –
 - (i) to suspend the practitioner's registration with immediate effect, or
 - (ii) to allow the practitioner to continue practising as a medical practitioner, subject to additional conditions.

5. **Immediate suspension.**

- (1) Despite paragraph 4, where the responsible officer considers –
 - (a) that it is necessary to do so for the protection of patients or members of the public, or
 - (b) that it is otherwise in the public interest,

the responsible officer may decide that a suspension under paragraph 3 is to have immediate effect without undertaking the steps described in paragraph 4.

- (2) If the responsible officer decides to suspend a practitioner with immediate effect under subparagraph (1), the responsible officer must –
 - (a) review the decision in accordance with subparagraph (7) within the period of 2 working days beginning with the day the suspension commenced, and
 - (b) as soon as is reasonably practicable, give the practitioner –
 - (i) notice of what further action the responsible officer is considering and on what grounds, and
 - (ii) the opportunity to put the practitioner's case in writing to the responsible officer by a specified time on a specified day.
- (3) The day specified for the purposes of subparagraph (2)(b)(ii) must be at least 2 working days after the day the practitioner is given notice of the suspension.
- (4) If the responsible officer fails to review the decision as required by subparagraph (2)(a), the suspension ends upon the expiry of the period mentioned in that subparagraph.
- (5) If a practitioner does not wish to put his or her case in writing to the responsible officer, as provided for by subparagraph (2)(b)(ii), or does not do so by the time specified, the responsible officer may confirm or revoke the suspension.

- (6) If the practitioner puts the practitioner's case in writing to the responsible officer, the responsible officer must –
- (a) take into account the representations made by the practitioner, in accordance with subparagraph (7), when making a decision, and
 - (b) may decide –
 - (i) to confirm or revoke the suspension, and
 - (ii) if the responsible officer decides to revoke the suspension, to impose further additional conditions on the practitioner's registration.

6. **Duration and revocation of suspension under paragraph 3.**

- (1) In the case of suspension on a ground specified in paragraph 3(1)(a) or (b), (including any such suspension that is confirmed under paragraph 5(6)(b)(i)), the responsible officer must specify an initial period of suspension of not more than 3 months.
- (2) In the case of a suspension whilst the responsible officer awaits the outcome of any criminal or regulatory investigation affecting the practitioner, the responsible officer may decide that the practitioner must remain suspended for an additional period, provided that the aggregate of the initial period of suspension and the additional period of suspension is not more than 6 months.
- (3) In the case of a suspension whilst the responsible officer awaits a decision of a court or regulatory body anywhere in the world affecting the practitioner, after that decision is made, the responsible officer may decide that the

practitioner must remain suspended for an additional period, provided that the aggregate of the initial period of suspension and the additional period is not more than 6 months.

- (4) The responsible officer may decide to extend an initial period of suspension or an additional period of suspension, provided that the aggregate period of suspension decided by the responsible officer does not exceed 6 months, by—
 - (a) giving the practitioner written notice of the extension, including the reasons for it and a copy of section 9K of this Ordinance, and
 - (b) giving the Department a copy of the notice.
- (5) The responsible officer may apply to the Registration Panel for an extension of a period of suspension.
- (6) An application under subparagraph (5) must be made before the expiry of the period of suspension.
- (7) The Registration Panel hearing an application under subparagraph (5) may –
 - (a) order the Department to extend a period of suspension so that the aggregate period of suspension of a practitioner is more than 6 months, and
 - (b) make a further order to the Department at any time while a period of suspension continues pursuant to an earlier order of the Panel.
- (8) An order under subparagraph (7) must specify –
 - (a) a date on which the period of suspension is to end,

- (b) an event beyond which the period of suspension is not to continue, or
 - (c) that the period of suspension is to end on whichever is the earlier of a specified date or event.
- (9) On making an order under subparagraph (7), the Panel must give the practitioner written notice of the order, including the reasons for it and a copy of section 9L of this Ordinance.
- (10) If an application under subparagraph (5) is made in accordance with subparagraph (6), but the Panel has not made its decision by the time that the period of suspension would, apart from this subparagraph, expire, the period of suspension continues until the Panel makes its decision.
- (11) A suspension under paragraph 3(1)(a) continues in force, even if the Panel decides to remove the practitioner from the Register, until the decision takes effect.
- (12) A suspension under paragraph 3(1)(d) continues in force until the appeal is concluded.
- (13) The responsible officer may, at any time, revoke a suspension, if the responsible officer is in possession of evidence that revoking the suspension will compromise neither –
 - (a) the protection of patients or members of the public, nor
 - (b) the public interest.

7. **Effect of suspension from Register.**

A practitioner who is suspended from the Register is to be treated as if the practitioner is not registered (except for the purposes of removal from the register), even though the practitioner's name appears in it.

8. **Referral to the Panel.**

Despite any other provision of this Schedule, a responsible officer must refer a concern to the Panel if at any time the responsible officer is of the opinion that –

- (a) any of the mandatory grounds for removal apply in relation to the practitioner, or
- (b) that the practitioner should otherwise be removed from the Register under one or more of the discretionary grounds for removal from the Register.

SCHEDULE C1

REMOVAL OF PRACTITIONERS FROM THE REGISTER

Section 9I

1. **Mandatory grounds for removal from the Register.**

The Panel must remove a practitioner from the Register if –

- (a) the practitioner does not satisfy or no longer satisfies any condition in section 1(a) or (b),
- (b) the practitioner is convicted of murder by any court in the British Islands,

- (c) the practitioner is subject to a national disqualification from any medical practitioners list, or
- (d) the practitioner has died.

2. **Discretionary grounds for removal from the Register.**

- (1) The Panel may remove a practitioner from the Register if –
- (a) the Panel approves an application for removal by the practitioner made under subparagraph (3),
 - (b) the practitioner cannot demonstrate that that practitioner has provided medical services in the Island –
 - (i) during the preceding 12 months, or
 - (ii) if the practitioner has been registered for less than 12 months, during the period beginning with that practitioner's registration,
 - (c) the practitioner fails to pay an annual charge payable by that practitioner within three months of the date on which a reminder notice is sent to the practitioner under section 4(6)(a),
 - (c) the practitioner has been convicted by any court in the British Islands of an offence other than murder and has consequently been sentenced to a term of imprisonment, whether suspended or not, of more than 6 months,

- (e) the practitioner does not, within the time specified, complete the actions, changes and other steps specified in a resolution notice that the practitioner has accepted, or
 - (d) in the opinion of the Panel –
 - (i) the practitioner does not comply with a general condition or any additional condition imposed on the practitioner's registration,
 - (ii) the practitioner's continued registration would be prejudicial to the efficiency of the provision of publicly-funded services, or
 - (iii) the practitioner is otherwise unsuitable to be included in the Register.
- (2) The Panel may also remove a practitioner from the Register if, in its opinion, the practitioner –
- (a) has, whether alone or together with another person, by act or omission, caused or risked causing detriment to –
 - (i) any scheme of benefits,
 - (ii) any scheme of social insurance under the Social Insurance (Guernsey) Law, 1978, or
 - (iii) any other publicly-funded scheme of benefits or health or social insurance anywhere in the world,

by securing or attempting to secure for the practitioner or another person any financial or other benefit, and

- (b) knew that the practitioner or the other person (if any) was not entitled to the benefit.
- (3) A practitioner may apply to the Panel in writing to be removed from the Register, but the Panel must refuse the application if, at the time it is made –
- (a) the practitioner is subject to any investigation or procedure under this Ordinance or by the General Medical Council,
 - (b) the practitioner is suspended from the Register or any medical practitioners list, or
 - (c) there is any other good reason for the application to be refused.
- (4) In calculating the period referred to in subparagraph (1)(b)(i) or (ii), the following is to be disregarded –
- (a) any period during which the practitioner's registration was suspended under this Ordinance,
 - (b) any period during which the practitioner's registration in the UK register was suspended, and
 - (c) any other period which the Panel, with good cause, decides.
- (5) This paragraph is subject to paragraphs 3 to 6.

3. **Criteria for removal from Register under paragraph 1.**

Where the Panel is considering whether to remove a practitioner from the Register under paragraph 2, the Panel must consider the following matters, where relevant –

- (a) any information relating to the practitioner notified by the practitioner in compliance with the general conditions and any additional conditions of the practitioner's registration,
- (b) any information provided by the NHS Litigation Authority, NHS Business Services Authority or any other body established (in the past, present or future) as a Special Health Authority under the National Health Service Act 2006, about past, current or proposed investigations or proceedings involving or relating to the practitioner,
- (c) whether the practitioner has previously failed to supply information, make a declaration required or comply with general or additional conditions imposed on that practitioner's registration or inclusion in any medical practitioners list,
- (d) whether the practitioner has ever failed to comply with a request to undertake an assessment by a body mentioned or described in item (b) of this subparagraph,
- (e) the nature of any incident or event involving the practitioner, and the facts giving rise to the incident or event,
- (f) the length of time since the last incident or event occurred and since any investigation into it was concluded,

- (g) any action taken or penalty imposed by the Social Security Department or the Health Service Advisory Committee under the 1990 Law, or by any regulatory or other body, including the police or courts, as a result of any such incident or event,
- (h) the relevance of the incident or event to the practitioner's provision of any publicly-funded services, and the likely risk to the practitioner's patients or to the Fund or public finances,
- (i) whether any offence of which the practitioner has been convicted, or for which the practitioner is being investigated or has been charged, is an offence to which the Criminal Justice (Sex Offenders and Miscellaneous Provisions) (Bailiwick of Guernsey) Law, 2013 applies by virtue of section 1 of that Law or, if it had been committed in the Bailiwick of Guernsey, would have been such an offence, and
- (j) whether, in respect of the Register or any medical practitioners list, the practitioner –
 - (i) was refused registration or inclusion in the list,
 - (ii) was registered or included in the list subject to conditions,
 - (iii) was removed from the Register or the list, or
 - (iv) is currently suspended from the Register or the list,

and, if so, the facts relating to the incident or event which led to such action and the reasons given for such action by the person who took the action.

4. **Procedure for removal under paragraph 2.**

- (1) Where the Panel is considering removing a practitioner from the Register on under paragraph 2(1) or (2), the Panel must give the practitioner written notice of –
 - (a) any concern that the Panel is taking into consideration,
 - (b) the proposed removal of the practitioner from the Register, and the grounds for that removal,
 - (c) the opportunity for the practitioner to put the practitioner's case in writing to the Panel, within 28 days after the day on which the notice is given.
- (2) If the practitioner does not wish to put the practitioner's case in writing to the Panel, or does not do so by the time specified, the Panel may remove the practitioner from the Register with immediate effect.
- (3) If the practitioner puts the practitioner's case in writing to the Panel, the Panel must take the practitioner's representations into account when determining whether or not to remove the practitioner from the Register.
- (4) If the Panel decides to remove the practitioner from the Register, the Panel –
 - (a) must give the practitioner written notice of the decision, including the reasons for it and a copy of section 9L of this Ordinance, and
 - (b) may order the Department to remove the practitioner from the Register, following the later of these two events –

- (i) the expiry of the period of 28 days beginning with the date of the written notice, or
- (ii) the date on which any appeal under this Ordinance against the Panel's decision (including any subsequent civil proceedings to challenge or overturn a decision on any such appeal) is concluded.

5. **Recommendation of responsible officer required for removal.**

Despite any other provision of this schedule, the Panel must not remove a practitioner from the Register under paragraph 2, except on the recommendation of the responsible officer.

6. **Readmission where conviction overturned**

- (1) Where a practitioner has been removed from the Register solely on the ground that the practitioner has been convicted of a criminal offence and that conviction is overturned on appeal, the Panel may order the Department to re-register the practitioner without the need for the practitioner to provide an application that complies with section 2(2) if the Panel is satisfied that there are no other matters that need to be considered in respect of the practitioner's re-registration.
- (2) If the conviction is reinstated on appeal, the previous order of the Panel to remove the practitioner from the practitioners list is, once again, to have effect.

SCHEDULE D1
THE REGISTRATION PANEL

Section 9J

1. **Constitution of the Panel.**
- (1) The Panel is to consist of the following members –
 - (a) at least one legally-qualified person, one of whom is to be appointed as the Chairman,
 - (b) at least one person who satisfies the conditions in section 1(a) and (b) but has not practised as a medical practitioner in any Island anytime within the previous 20 years, and
 - (c) at least one lay member, being a person who is ordinarily resident in the Islands, but –
 - (i) has never practised as a medical practitioner anywhere in the world, and
 - (ii) is not a legally-qualified person.
- (2) Before recommending a person to the Policy Council for appointment to the Panel, the Department may require that person to provide, and to authorise the Department to obtain, such information (including previous convictions) and references as the Department may reasonably require to ascertain that person's suitability for membership of the Panel.
- (3) Each Panel member is to be appointed for a term of four years or such shorter period as the Policy Council may determine in each case.

- (4) A Panel member may be reappointed.

2. **Panel members.**

- (1) The Chairman or any other Panel member may resign from office at any time by giving notice in writing to the Policy Council.
- (2) On the recommendation of the Department, the Policy Council may remove the Chairman or any other Panel member from office by giving notice in writing to the Panel member concerned, if the Policy Council is satisfied that the person concerned –
- (a) has without reasonable cause failed to carry out that person's duties as a Panel member,
 - (b) has been convicted of a criminal offence,
 - (c) has become bankrupt (within the meaning of section 80(1) of the Trusts (Guernsey) Law, 2007),
 - (d) is incapacitated by physical or mental illness, or
 - (e) is otherwise unable or unfit to perform that person's duties as a Panel member.
- (3) If the Chairman resigns or is removed from office –
- (a) this in itself does not affect that person's continuance in office as a Panel member,
 - (b) the Panel must, with the consent of the Policy Council, appoint another Panel member (whether or not that member is a legally-

qualified person) to act as Chairman temporarily until the Policy Council appoints another legally-qualified person as Chairman.

- (4) The validity of any proceedings of the Panel is unaffected by a vacancy in its members, by any defect in the appointment of a member or by any lack of qualification of a person to act as a member.

3. **Annual report.**

- (1) As soon as practicable after the end of each calendar year, the Panel must submit a written report to the States in respect of that calendar year in accordance with subparagraphs (2) and (3).
- (2) The Panel's annual report must include a summary of the Panel's activities, including –
 - (a) the number of applications for registration considered, and the number refused,
 - (b) the number of practitioners (if any) recommended by a responsible officer for removal from the Register, and the number removed from the Register by the Panel, and
 - (c) any other information required by the Policy Council or by Resolution of the States.
- (3) The Panel must send its annual report to the Policy Council for submission to the States on behalf of the Policy Council.

4. **Delegations.**

- (1) The Panel may, in writing, delegate to any of its members, a responsible officer or any employee of the States of Guernsey, either generally or otherwise, any of its functions except –
 - (a) this power of delegation, and
 - (b) its duty to make an annual report to the States.
- (2) A function delegated under this paragraph may be carried out by the delegate in accordance with the instrument of delegation and, when so carried out, is deemed to have been carried out by the Panel.
- (3) A delegation under this paragraph is revocable at will by the Panel and does not prevent the Panel carrying out the function delegated.
- (4) For the avoidance of doubt, a function may be delegated to a committee comprising any number of persons.

5. **Administration and expenses.**

- (1) The Department must provide the Panel with the accommodation, equipment, secretarial and clerical services, and other facilities, that the Panel reasonably requires for the proper and effectual discharge of its functions.
- (2) The Department must pay out of the general revenue account of the States –
 - (a) any reasonable expenses claimed by the Panel and its members, and
 - (b) any allowances to Panel members (including attendance allowances) prescribed by regulations.

- (3) The Department must cause to be kept a record and account of all expenditure incurred by the Department under subparagraphs (1) and (2).
- (4) The Panel must provide the Department with any information that the Department reasonably requires to enable the Department to discharge its functions under this Ordinance.

6. **Meetings.**

- (1) The Panel must meet as frequently as required to discharge its functions under this Ordinance.
- (2) The person who presides at meetings of the Panel is –
 - (a) the Chairman, if the Chairman is present, or
 - (b) if the Chairman is not present, the person elected to chair the meeting by, and from among, the other Panel members present.
- (3) At a meeting –
 - (a) a quorum is constituted by –
 - (i) three members, if the Panel (including the Chairman) consists of six or fewer members, or
 - (ii) four members, if the Panel (including the Chairman) consists of seven or more members,
 - (b) decisions are made by a majority vote,

- (c) each member other than the presiding member has one vote, and
- (d) the presiding member has no original vote, but in the event of equality in the votes of the other members present, that presiding member must exercise a casting vote.

7. **Transaction of business without meeting.**

The Panel may, if it thinks fit, transact any business by the circulation of papers to all Panel members, and a resolution in writing approved in writing by a majority of the Panel members is as valid and effectual as if passed at a meeting of the Panel by the votes of the members so approving the resolution.

8. **Minutes.**

The Panel must keep proper minutes of its proceedings, including minutes of any business transacted as permitted by paragraph 7.

9. **Residual power to regulate procedure.**

Subject to the provisions of this Schedule the Panel may regulate its own procedure.

10. **Interpretation.**

In this Schedule, "**legally-qualified person**" means –

- (a) an Advocate of the Royal Court of Guernsey,
- (b) a member of the Bar of England and Wales, the Bar of Northern Ireland or the Faculty of Advocates in Scotland, who holds a practising certificate or is otherwise authorised to provide legal services,

- (c) a solicitor of the Senior Courts of England and Wales, a solicitor in Scotland or a solicitor of the Court of Judicature of Northern Ireland,
- (d) an Advocate of the Royal Court of Jersey,
- (e) an Isle of Man advocate, or
- (f) any other person entitled to practise law as a member of the legal profession in any Commonwealth jurisdiction."

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