

**ORDINANCE  
OF THE CHIEF PLEAS OF SARK**

ENTITLED

**The Regulation of Health Professions (Medical  
Practitioners) (Sark) Ordinance, 2017 \***

*[CONSOLIDATED TEXT]*

**NOTE**

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\* Sark Ordinance No. VI of 2017.

# ORDINANCE OF THE CHIEF PLEAS OF SARK

ENTITLED

## **The Regulation of Health Professions (Medical Practitioners) (Sark) Ordinance, 2017**

ARRANGEMENT OF SECTIONS

### PART I

#### REGISTRATION, EXCLUSIVITY AND ANNUAL CHARGES

1. Restrictions on medical practice.
2. Wilful or false representations, descriptions, etc.
3. Registration.
4. Deferral of decision on registration.
5. Mandatory grounds for refusal of application.
6. Discretionary grounds for refusal of application.
7. Responsible officer may impose additional conditions.
8. Registration to be effected.
9. Practitioners to comply with general and additional conditions.
10. Classification.
11. Annual charges.

### PART II

#### THE SARK REGISTER AND RELATED DUTIES

12. Duties of the Guernsey Committee in relation to Sark Register.
13. Delegations by the Guernsey Committee.
14. Registered practitioner's duty to notify.
15. Registered practitioner's duty to verify.
16. Amendment of entries and termination of registration.

### PART III

#### CONCERNS

17. Concerns to be referred to responsible officer.
18. Preliminary assessment of concerns.
19. Procedure where concern does not raise substantive issue.

20. Informal resolution where concern does not raise substantive issue.
21. Procedure where concern raises substantive issue.
22. Decision by responsible officer following investigation.
23. Referral of concerns.
24. Resolution notices.
25. Schedules 2 and 3 to have effect.

PART IV  
REGISTRATION PANEL

26. Registration Panel.

PART V  
REVIEWS AND APPEALS

27. Review of registration-related decisions.
28. Appeal to Court of Seneschal.

PART VI  
RESPONSIBLE OFFICERS

29. Responsible officers for Sark.
30. Terms and conditions of appointment.
31. Functions of responsible officer.
32. Powers of responsible officer.
33. Warrant to enter dwellings.
34. Duty to co-operate and share information.

PART VII  
DUTIES OF REGISTERED PRACTITIONERS AND  
DESIGNATED BODIES

35. General duties of registered practitioners.
36. Designated bodies and medical practitioners.
37. Duties of designated bodies.

PART VIII  
MISCELLANEOUS AND GENERAL PROVISIONS

38. Confidentiality.
39. Protection from self-incrimination.
40. Obstruction, etc. or provision of false, deceptive or misleading information.
41. Offences and penalties.
42. Offences by legal persons and unincorporated bodies.
43. Regulations may amend period for notices, applications, etc.
44. Exclusion of liability.

45. Service of documents.
46. General provisions as to Regulations.
47. Interpretation.
48. Index of defined expressions.
49. Transitional and savings provisions.
50. Extent.
51. Citation.
52. Commencement.

SCHEDULE 1 General conditions applicable to all practitioners.

SCHEDULE 2 Powers of responsible officer following investigation of concerns.

SCHEDULE 3 Removal of practitioners from Register.

SCHEDULE 4 Modifications to Schedule D1 to the Guernsey and Alderney Ordinance.

SCHEDULE 5 Functions of responsible officers for Local Practitioners.

SCHEDULE 6 Functions of responsible officers for UK Connected Practitioners.

SCHEDULE 7 Duties of designated bodies.

SCHEDULE 8 Relevant bodies, officers and purposes.

SCHEDULE 9 Transitional and savings.

*(Made on 18th January, 2017.)*

## **The Regulation of Health Professions (Medical Practitioners) (Sark) Ordinance, 2017<sup>1</sup>**

**THE CHIEF PLEAS OF SARK**, in pursuance of their Resolution of the 4<sup>th</sup> May, 2011, and in exercise of the powers conferred on them by sections 1 and 2 of the Regulation of Health Professions (Enabling Provisions) (Sark) Law, 2012<sup>a</sup> and all other powers in that behalf, hereby order: –

### **PART I**

#### **REGISTRATION, EXCLUSIVITY AND ANNUAL CHARGES**

##### **Restrictions on medical practice.**

**1.** (1) Subject to subsections (2) and (3), a person must not practise as a medical practitioner in the Island unless the person –

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

(2) The requirement in subsection (1)(c) does not apply to Brecqhou.

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<sup>a</sup> Order in Council No. XIV of 2013.

(3) A person who meets the requirements of subsection (1)(a) and (b), but does not meet either or both of the requirements of subsection (1)(c) and (d), may nevertheless practise as a medical practitioner in the Island if –

- (a) the person has not practised and does not practise as a medical practitioner anywhere in the Island on any more than 5 days in aggregate in any calendar year, and
- (b) if required by Regulations made by the Guernsey Committee, the person has given written notice to the Guernsey Committee in accordance with those Regulations, of his or her practising or intention to practise as a medical practitioner in the Island.

(4) 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<sup>b</sup>, except to the extent authorised or

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<sup>b</sup> Ordinance No. XXV of 2009; as amended by Ordinance No. XXV of 2010 and No. IX of 2016.

permitted by the Medicines (Human and Veterinary) (Bailiwick of Guernsey) Law, 2008<sup>c</sup> or any enactment or subordinate legislation made under it,

- (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.

(5) 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.

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<sup>c</sup> Order in Council No. V of 2009; as amended by Ordinances No. XXIV of 2009, No. XLI of 2013 and No. IX of 2016. See also Ordres en Conseil Vol. XXII, p. 122 and Vol. XXIX, p. 207.

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**NOTE**

*The following case has referred to this Ordinance:*

*Dr S. Borchardt v Dr P. Rabey* [2025]GRC010 (Unreported, Royal Court, 20th February).

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**Wilful or false representations, descriptions, etc.**

2. (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 Sark 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.

**Registration.**

3. (1) Any person may apply to the Guernsey Committee for registration in accordance with this section.

(2) An application must –

(a) be in the prescribed form and manner,

(b) include the prescribed information relating to the applicant, verified in any manner the Guernsey

Committee considers appropriate, and

- (c) be accompanied by the prescribed fee.

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

- (a) must decide whether or not any of the mandatory grounds for refusal apply to the 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 28 of this Ordinance.

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

- (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 7.

(5) If the Guernsey Committee decides under subsection (4)(b) that one or more of the discretionary grounds for refusal apply or are likely to apply, the Guernsey Committee must refer the application to the Registration Panel (together with the Guernsey Committee's recommendation as to whether or not the application should be refused) to decide whether to refuse the application under section 6.

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

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

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**NOTE**

*The following Regulations have been made under section 3:*

*Regulation of Health Professions (Medical Practitioners) (Sark) Regulations, 2017.*

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**Deferral of decision on registration.**

4. (1) The Guernsey Committee may, in consultation with the responsible officer, defer either or both its decisions under section 3(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, 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 Sark 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 Sark Register,
- (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 Guernsey Committee must give the applicant written notice of any deferral under subsection (1), including the reasons for the deferral and a copy of section 27 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 Guernsey Committee 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.**

5. An application for registration must be refused if –

- (a) the practitioner does not satisfy any requirement of section 1(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 4, 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 7, the applicant has not given notice that that applicant wishes to be registered subject to those conditions.

**Discretionary grounds for refusal of application.**

6. (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,

*Consolidated text*

- (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 States of Guernsey Committee for Employment & Social Security, 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 3(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 Guernsey Committee under section 3(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 States of Guernsey Committee for Employment & Social Security 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<sup>d</sup>

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<sup>d</sup> Order in Council No. IX of 2014; as amended by No. XI of 2015; No. XX of

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 Sark 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 Sark Register, additional conditions or, in the case of a medical practitioners list, any conditions,

(iii) has been removed from the Sark Register or list, or

(iv) is currently suspended from the Sark 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,

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2015; Ordinance No. XXXIV of 2015. See also Ordres en Conseil Vol. XXIX, p. 207.

including the reasons for it and a copy of section 28 of this Ordinance, and

(b) give the Guernsey Committee 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.**

7. (1) Where an application for registration is referred to the responsible officer under section 3(4)(c) or 6(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 27 of this Ordinance, and

(b) giving the Guernsey Committee 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 Guernsey Committee, 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 6(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 to be effected.**

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

- (a) the Guernsey Committee has decided that none of the mandatory grounds for refusal applies to the application, and
- (b) either –

- (i) the Guernsey Committee 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 Guernsey Committee has referred the application to the Registration Panel under section 3(5), but the Panel has decided not to refuse that application.

(2) Where this section applies, the Guernsey Committee 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 Guernsey Committee –
- (a) entering the prescribed information in the Sark Register, and
  - (b) giving the practitioner written notice of the registration, including the additional conditions.

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**NOTE**

*The following Regulations have been made under section 8:*

*Regulation of Health Professions (Medical Practitioners) (Sark) Regulations, 2017.*

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**Practitioners to comply with general and additional conditions.**

9. A registered practitioner must comply with –

- (a) the general conditions in Schedule 1, and
- (b) any additional conditions.

**Classification.**

**10.** (1) Upon registering any medical practitioner other than a responsible officer, the Guernsey Committee must classify the practitioner in accordance with the following –

- (a) a medical practitioner is in the UK Connected Practitioners class if the practitioner has a UK connection, and
- (b) any other medical practitioner is in the Local Practitioners class.

(2) The Guernsey Committee must remove any registered practitioner who becomes a responsible officer from any class within which the practitioner has been classified.

(3) For the purposes of subsection (1)(a), a medical practitioner has a UK connection if a designated body, within the meaning of any Regulations made under section 45A of the 1983 Act, has a connection with the practitioner that is prescribed in any such Regulations.

**Annual charges.**

**11.** (1) The Guernsey Committee may make regulations to prescribe an annual charge payable by registered practitioners in respect of any registration year, which may include an amount to reimburse the general revenue account of the States of Guernsey for –

*Consolidated text*

- (a) any costs and expenses associated with the discharge of the functions of the Guernsey Committee under this Ordinance,
- (b) the costs, allowances and expenses of the Registration Panel associated with the discharge of its functions under this Ordinance, and
- (c) the costs, emoluments and expenses of the responsible officer mentioned in paragraph 2 of Schedule 5 and associated with the discharge of the responsible officer's functions under this Ordinance.

(2) An annual charge in respect of a registration year may be prescribed at any time before the commencement of the registration year.

(3) A registered practitioner must pay the annual charge in respect of each registration year for which the practitioner is registered –

- (a) calculated in accordance with subsection (4), and
- (b) within the time specified in subsection (5).

(4) The annual charge payable by a registered practitioner in respect of any registration year is –

- (a) where the practitioner is registered as a medical practitioner in the Sark Register before the commencement of the registration year, the annual charge prescribed in respect of that registration year, and

- (b) where the practitioner is registered as a medical practitioner in the Sark Register at any time during the registration year, the annual charge prescribed in respect of that registration year multiplied by the remaining period of the registration year expressed as a fraction of that registration year.

(5) A registered practitioner must pay the annual charge payable by the practitioner in respect of any registration year –

- (a) where the practitioner is registered before the commencement of the registration year, on or before the date which is one month following the date on which the registration year commences, and
- (b) where the practitioner is registered at any time during the registration year, on or before the date which is one month following the date on which that practitioner was so registered.

(6) If a registered practitioner does not pay an annual charge in respect of a registration year within the time specified for the payment of the charge in subsection (5), the Guernsey Committee may –

- (a) send the practitioner a written notice to remind that practitioner to pay the charge, and
- (b) whether or not a notice is sent under paragraph (a), recover the charge from the practitioner as a civil debt due and payable by the person to the States of

Guernsey.

(7) In this section, "**registration year**" means any prescribed period of 12 months, subject to any prescribed transitional period shorter than 12 months in relation to the first period for which an annual charge is prescribed.

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**NOTE**

*The following Regulations have been made under section 11:*

*Regulation of Health Professions (Medical Practitioners) (Sark) Regulations, 2017.*

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PART II

THE SARK REGISTER AND RELATED DUTIES

**Duties of the Guernsey Committee in relation to the Sark Register.**

**12.** (1) The Guernsey Committee must establish a register of medical practitioners (referred to in this Ordinance as "**the Sark Register**") for the purposes of this Ordinance.

- (2) The Guernsey Committee –
- (a) must maintain the Sark Register in accordance with this Ordinance and regulations made by the Guernsey Committee,
  - (b) must make available to the public, in a form and manner the Guernsey Committee considers appropriate, any prescribed information, and
  - (c) at the request of a responsible officer for a registered

practitioner, must –

- (i) give that responsible officer access to any register information relating to the practitioner, and any other information relating to the practitioner kept in the Sark Register or otherwise held by the Guernsey Committee for the purposes of this Ordinance, and
- (ii) allow that responsible officer to inspect, examine, take extracts of, copy, and photograph that information.

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**NOTE**

*The following Regulations have been made under section 12:*

*Regulation of Health Professions (Medical Practitioners) (Sark) Regulations, 2017.*

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**Delegations by the Guernsey Committee.**

13. Section 4 of the Public Functions (Transfer and Performance) (Bailiwick of Guernsey) Law, 1991<sup>e</sup> has effect in relation to the functions of the Guernsey Committee under this Ordinance as if the reference to "any officer responsible to that Committee" in section 4(1) (a) of that Law includes a reference to any employee of the States of Guernsey or the Chief Pleas of Sark (whether or not that employee is responsible to the Guernsey Committee).

**Registered practitioner's duty to notify.**

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<sup>e</sup> Ordres en Conseil Vol. XXXIII, p. 478; as amended by Ordinance No. XXXIII of 2003 and No. IX of 2016.

**14.** (1) A registered practitioner who becomes aware or is made aware of a prescribed event or a relevant change must give the Guernsey Committee written notice of the event or change in accordance with this section.

(2) The registered practitioner must give the Guernsey Committee written notice of –

(a) a prescribed event within 7 days of becoming aware or being made aware of the occurrence of the event, and

(b) a relevant change within one month of becoming aware or being made aware of the change.

(3) A notice under this section must include any information required to be included in the notice by regulations made by the Guernsey Committee.

(4) In this section, "**relevant change**", in relation to any registered practitioner, means any circumstances (other than the occurrence of a prescribed event) which would require an amendment to be made to the register information relating to the practitioner in order for that information to be correct, accurate and up-to-date.

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**NOTE**

*The following Regulations have been made under section 14:*

*Regulation of Health Professions (Medical Practitioners) (Sark) Regulations, 2017.*

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**Registered practitioner's duty to verify.**

**15.** (1) The Guernsey Committee may, by notice in writing to a

registered practitioner, require the practitioner to –

- (a) give the Guernsey Committee evidence of any event or change notified under section 14, or
- (b) verify or inform the Guernsey Committee of any change in the register information relating to that practitioner, whether or not the change is notified under section 14,

on or before a date specified by the Guernsey Committee in the notice.

(2) For the purposes of subsection (1) (b), the Guernsey Committee may send a registered practitioner all or any of the register information relating to the practitioner and require that practitioner to –

- (a) make a statement either confirming that the information is correct, or providing details of information which is omitted from the statement or which has changed,
- (b) sign and date the statement, and
- (c) send the statement to the Guernsey Committee no later than the date specified by the Guernsey Committee in the notice under subsection (1).

(3) A practitioner to whom a notice is issued under this section must comply with any requirement specified under subsection (1) or (2) on or before the date specified in the notice under subsection (1).

**Amendment of entries and termination of registration.**

**16.** (1) The Guernsey Committee may amend any register information or any other information kept in the Sark Register to keep the Sark Register correct, accurate and up-to-date, and must give effect to any direction of a responsible officer or order of the Registration Panel under this Ordinance.

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

PART III  
CONCERNS

**Concerns to be referred to responsible officer.**

**17.** (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 Sark Committee, or
- (d) the Guernsey 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.

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**NOTE**

*The following case has referred to Part III:*

*Dr S. Borchardt v Dr P. Rabey* [2025]GRC010 (Unreported, Royal Court, 20th February).

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**Preliminary assessment of concerns.**

**18.** The 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 Sark Committee or the General Medical Council under section 23, or

- (d) regarding the practitioner's fitness to practise.

**Procedure where concern does not raise substantive issue.**

**19.** If the 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 where concern does not raise substantive issue.**

**20.** If the 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.

**Procedure where concern raises substantive issue.**

**21.** (1) If the 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 23, 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 following investigation.**

**22.** (1) Upon receiving an authorised person's report of the findings of an investigation under section 21(2)(b), 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 24 or Schedule 2.

**Referral of concerns.**

**23.** (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, created an unreasonable charge on the Fund, the responsible officer or (as the case may be) the Panel must refer the issue to the Sark Committee.

(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.**

**24.** (1) This section applies where –

- (a) a responsible officer has decided under section 22 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 21.

(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 be taken to have been resolved and the responsible officer must decide whether to take any action under Schedule 2.

**Schedules 2 and 3 to have effect.**

25. Schedules 2 and 3 have effect.

PART IV  
REGISTRATION PANEL

**Registration Panel.**

26. (1) For the purposes of this Ordinance, the Registration Panel is the Registration Panel established and constituted under section 9J of the Guernsey and Alderney Ordinance.

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

(3) Schedule D1 to the Guernsey and Alderney Ordinance has effect in relation to the Panel and its members as the schedule has effect in Guernsey and Alderney, subject to the modifications in Schedule 4 to this Ordinance.

PART V  
REVIEWS AND APPEALS

**Review of registration-related decisions.**

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

- (a) a decision of the Guernsey Committee under section 4(1) to defer a decision on an application for registration,

- (b) a decision of a responsible officer to specify additional conditions under section 7(1), if the practitioner has agreed under section 7(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 2,
- (d) a decision of a responsible officer to suspend the registration of a practitioner under paragraph 3 of Schedule 2, or
- (e) a decision of a responsible officer to extend the initial or additional period of a suspension under paragraph 6(4) of Schedule 2.

(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, 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 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 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 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 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 28 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 Guernsey Committee, the Guernsey Committee.

(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 practitioner, 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 Guernsey Committee, the Guernsey Committee.

(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 Court of Seneschal.**

**28.** (1) This section applies to appealable decisions, being –

- (a) a refusal of an application for registration under section 3(3)(b) or 6,
- (b) an order under paragraph 6(7) of Schedule 2 to extend any period of suspension of the registration of a practitioner,
- (c) a decision under paragraph 2 of Schedule 3 to remove a practitioner from the Sark Register, and
- (d) a determination under section 27(5)(c) following a review.

(2) The following persons may appeal an appealable decision to the 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 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 Court or to the rules of the Court.

(7) On an appeal, the 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 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 Court under this section on a question of law lies to the Royal Court.

(10) In this section –

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

**"the Court"** means the Court of the Seneschal, and

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

PART VI  
RESPONSIBLE OFFICERS

**Responsible officers for Sark.**

**29.** (1) The responsible officer for a practitioner in the UK Connected Practitioners class is the responsible officer appointed for that class of practitioners under the Guernsey and Alderney Ordinance.

(2) The responsible officer for a practitioner in the Local Practitioners class is the responsible officer appointed for that class of practitioners under the Guernsey and Alderney Ordinance.

(3) Section 10(3) to (7) of the Guernsey and Alderney Ordinance have effect in relation to the appointment of a responsible officer and the responsible officer as those provisions have effect in Guernsey and Alderney.

**Terms and conditions of appointment.**

**30.** (1) Schedule 1 to the Guernsey and Alderney Ordinance has effect in relation to any responsible officer and the officer's functions under this Ordinance as the schedule has effect in Guernsey and Alderney, subject to the following modifications –

- (a) in paragraph 2(3) of that schedule, immediately after "States employee", insert "or employee of the Chief Pleas of Sark", and
- (b) for paragraph 4 of that schedule, substitute the following paragraph –

**"4. Annual report.**

As soon as practicable after the end of each calendar year, the responsible officer must submit a written report to the Chief Pleas of Sark as to the discharge of the officer's functions during the calendar year."

(2) The office of a responsible officer is a public office and a responsible officer is under a duty to carry out the functions of that office with complete fairness, impartiality and independence.

(3) The terms and conditions of the appointment of a responsible officer are as agreed between the States of Guernsey Policy & Resources Committee and the responsible officer, but no term or condition is to be –

- (a) inconsistent with any provision of Schedule 1 to the Guernsey and Alderney Ordinance, as given effect subject to the modifications in subsection (1),
- (b) inconsistent with any other provision of this Ordinance, or
- (c) construed so as to create a contract of employment or agency between the States of Guernsey or the Chief Pleas of Sark and the responsible officer.

**Functions of responsible officer.**

**31.** (1) Schedule 5 has effect in relation to the functions of a responsible officer for the Local Practitioners class as the schedule has effect in Guernsey and Alderney.

(2) Schedule 6 has effect in relation to the functions of a responsible officer for the UK Connected Practitioners class as the schedule has effect in Guernsey and Alderney.

**Powers of responsible officer.**

**32.** (1) Where a responsible officer for a class becomes aware of a concern that appears to raise an issue regarding the fitness to practise of a practitioner in the class ("**the practitioner concerned**"), the responsible officer may exercise all or any of the powers specified in subsection (2) for the purpose of ascertaining whether the concern in fact raises an issue regarding the fitness to practise of the practitioner concerned.

(2) The powers are –

- (a) to enter and inspect any relevant premises at a reasonable time,
- (b) to require a relevant person –
  - (i) to answer questions, either alone or in the presence of any other person requested by the relevant person,
  - (ii) to produce to the responsible officer any information kept by or on behalf of the relevant person, and
  - (iii) to provide the responsible officer with any facilities and assistance that the officer considers necessary,

- (c) to inspect, examine, take extracts of, copy and photograph any information produced to the responsible officer.

(3) A responsible officer must not enter or inspect a dwelling or any part of a dwelling under this section except under the authority of a warrant granted by the Seneschal under section 33.

(4) The powers in subsection (2) do not extend to requiring any person to answer any question or produce any information that the person could not be compelled to answer or produce in civil proceedings before the Royal Court; and for the avoidance of doubt, such information includes any items subject to legal professional privilege (within the meaning given by section 24 of the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003<sup>f</sup>).

(5) A person exercising the powers conferred by this section must, if required by the occupier or person in charge of the premises entered, produce evidence of the person's appointment as a responsible officer (or other authority to exercise the powers conferred by this section).

(6) In this section –

**"relevant person"** means –

- (a) the practitioner concerned,
- (b) the designated body of the practitioner concerned, or

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<sup>f</sup> Ordres en Conseil Vol. XLIII(2), p. 617; as amended by Order in Council No. XVI of 2009 and No. XV of 2011; Ordinances No. XXXIII of 2003, No. XXXIII of 2009, No. XXIX of 2011 and No. IX of 2016.

- (c) any person whom the responsible officer finds in any premises entered under this section, and

**"relevant premises"** means any premises at or in which the responsible officer has reasonable grounds for believing that –

- (a) the practitioner concerned is practising or has practised as a medical practitioner, or
- (b) any information is kept relating to practice of the practitioner concerned as a medical practitioner.

**Warrant to enter dwellings.**

**33.** (1) On application made by a responsible officer for a class of registered practitioners, the Seneschal may grant a warrant conferring on the responsible officer all or any of the powers set out in section 32(2), if the Seneschal is satisfied by information on oath supplied by the responsible officer that –

- (a) the responsible officer is aware of a concern that appears to raise an issue regarding the fitness to practise of a practitioner in the class ("**the practitioner concerned**"),
- (b) there are reasonable grounds for believing that, at or in premises identified by the responsible officer –
  - (i) the practitioner concerned is practising or has practised as a medical practitioner, or
  - (ii) information is kept relating to the practice of the practitioner concerned as a medical practitioner,

- (c) those premises consist of a dwelling or part of a dwelling, and
- (d) it is necessary or expedient for the responsible officer to enter those premises for the purpose of ascertaining whether the concern mentioned in paragraph (a) in fact raises an issue regarding the fitness to practise of the practitioner concerned.

(2) A warrant granted under subsection (1) authorises the responsible officer to exercise the powers specified in the warrant in relation to the premises identified in that warrant subject to section 32(4).

(3) The Seneschal must not issue a warrant under subsection (1) unless the Seneschal is satisfied that –

- (a) those premises are unoccupied,
- (b) the occupier of those premises has been notified of the responsible officer's intention to apply for a warrant,
- (c) the occupier of those premises is absent and notice of the responsible officer's intention to apply for a warrant has been left in a conspicuous place on those premises, or
- (d) notifying the occupier of those premises of the responsible officer's intention to apply for a warrant would prejudice or frustrate the purpose for which the warrant is sought.

(4) A responsible officer executing a warrant granted under subsection (1) –

(a) must be accompanied by the Constable or the Vingtenier, and

(b) may use such reasonable force as may be necessary.

(5) Subject to any necessary modifications, section 10 (search warrants - safeguards) and section 11 (execution of warrants) (except section 11(10)(c)) of the Police Powers and Criminal Evidence (Bailiwick of Guernsey) Law, 2003 apply in relation to a warrant sought or granted under this section, as if the responsible officer seeking or being granted the warrant were a police officer.

**Duty to co-operate and share information.**

**34.** (1) A responsible officer must co-operate with and provide any information reasonably required by a relevant body or officer for a relevant purpose.

(2) A responsible officer may also give any information relating to a concern that raises or may raise an issue regarding a registered practitioner's fitness to practise to a relevant body or officer for a relevant purpose.

(3) A responsible officer must inform a registered practitioner when the responsible officer gives information concerning the practitioner to any person under subsection (1) or (2).

(4) For the avoidance of doubt, subsections (1) and (2) apply whether the information has been obtained by a responsible officer in carrying out the officer's functions under this Ordinance, or provided to a responsible officer voluntarily by a registered practitioner or any other person.

PART VII

DUTIES OF REGISTERED PRACTITIONERS AND DESIGNATED BODIES

**General duties of registered practitioners.**

35. (1) A registered practitioner must co-operate with and provide any information reasonably required by a relevant body or officer for a relevant purpose.

(2) Without limiting subsection (1), a registered practitioner must collect and present to the responsible officer or non-Island responsible officer for the practitioner any supporting information required by that officer for the purposes of revalidation of the practitioner under the 1983 Act.

**Designated bodies and medical practitioners.**

36. (1) For the purposes of this Ordinance (other than section 10(3)), the following are designated bodies –

- (a) any person who employs a medical practitioner to provide services as a medical practitioner in the Island,
- (b) any person who contracts with or otherwise engages a medical practitioner to provide services as a medical practitioner in the Island,
- (c) to the extent that any medical practitioner provides services as a medical practitioner in the Island together as a partner in a partnership, each of the partners in the partnership is jointly and severally the designated body,
- (d) to the extent that any medical practitioner is self-employed, the practitioner himself or herself, and

(e) any prescribed person in relation to any prescribed medical practitioner.

(2) For the purposes of this Ordinance (other than section 10(3)), the designated body of any medical practitioner is the person who is the designated body under subsection (1) in relation to the practitioner.

(3) For the avoidance of doubt –

(a) the Sark Committee is a designated body for the Sark Doctor, and

(b) each of two or more persons may be the designated body for the same medical practitioner.

**Duties of designated bodies.**

37. Schedule 7 has effect in relation to the duties of designated bodies.

PART VIII

MISCELLANEOUS AND GENERAL PROVISIONS

**Confidentiality.**

38. (1) A relevant body or officer who acquires any information from any person under this Ordinance must not use or disclose it for any purpose other than a relevant purpose.

(2) Without limiting subsection (1), a person acquiring any information under this Ordinance from which an individual or body may be identified must not disclose the information without the consent of every individual who, and every body which, can be identified from that information.

- (3) Neither subsection (1) nor subsection (2) prohibits –
- (a) use or disclosure of information for the purpose of enabling or assisting a relevant body or officer to discharge the functions of the relevant body or officer in connection with a relevant purpose,
  - (b) disclosure of information which at the time of disclosure is or has already been made available to the public from other sources,
  - (c) disclosure of information in the form of a summary or collection so framed as not to enable information relating to any particular individual or body to be ascertained from it,
  - (d) use or disclosure of information in connection with any proceedings arising out of the 1983 Act, any relevant foreign enactment, this Ordinance or any other enactment in force in the Island,
  - (e) disclosure of information to comply with an order of a court,
  - (f) use or disclosure of information where it appears to the person making the use or disclosure to be authorised or required by or under the 1983 Act, any relevant foreign enactment, this Ordinance or any other enactment in force in the Island,

- (g) use or disclosure of information where it appears to the person making the use or disclosure to be necessary –
  - (i) to enable or assist functions under the 1983 Act, any relevant foreign enactment, this Ordinance or any other enactment in force in the Island to be carried out,
  - (ii) for the discharge of any international obligation to which the Bailiwick of Guernsey is subject, or
  - (iii) for –
    - (A) the investigation, detection or prevention of offences,
    - (B) the apprehension or prosecution of offenders, or
    - (C) the instigation or conduct of any disciplinary or criminal proceedings,

whether in Sark or elsewhere.

(4) In subsection (3)(g)(iii), "**offence**" includes professional misconduct or a disciplinary offence, and "offender" has a corresponding meaning.

**Protection from self-incrimination.**

**39.** A statement made by a person in response to a requirement imposed by or under this Ordinance ("**the statement concerned**") –

- (a) may be used in evidence against the person in proceedings other than criminal proceedings, and
- (b) may not be used in evidence against the person in criminal proceedings except –
  - (i) where evidence relating to the statement concerned is adduced, or a question relating to the statement concerned is asked, in the proceedings by or on behalf of that person,
  - (ii) in proceedings for perjury or perverting the course of justice, or
  - (iii) in proceedings where, in giving evidence, that person makes a statement inconsistent with the statement concerned, but in this case the statement concerned is only admissible to the extent necessary to establish the inconsistency.

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

**40.** (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 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.

**Offences and penalties.**

**41.** (1) A person is guilty of an offence who, without reasonable excuse, fails to comply with or contravenes –

- (a) section 1(1),
- (b) section 14(1),
- (c) section 15(3), or
- (d) section 38(1) or (2).

(2) A person guilty of an offence under subsection (1) or section 2(5) is liable –

- (a) upon summary conviction, to imprisonment for a term

not exceeding one month, or to a fine not exceeding level 4 on the Sark uniform scale, or to both, and

(b) on conviction on indictment, to imprisonment for a term not exceeding 3 months, or to a fine not exceeding level 5 on the Sark uniform scale, or to both.

(3) A person guilty of an offence under section 40(1) or (2) is liable –

(a) upon summary conviction, to a fine not exceeding level 4 on the Sark uniform scale, and

(b) on conviction on indictment, to a fine not exceeding level 5 on the Sark uniform scale.

(4) In proceedings against a person for an offence under subsection (1), it is a defence for that person to show –

(a) that the person took all reasonable steps and exercised all due diligence to avoid committing the offence, or

(b) in relation to an offence under subsection (1)(d), that the person did not know and had no reason to suspect that the information in question was to be regarded as confidential.

**Offences by legal persons and unincorporated bodies.**

**42.** (1) Where a legal person is guilty of an offence under this Ordinance, and the offence is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –

- (a) any director, manager, secretary or other similar officer, or any foundation official, of the legal person, or
- (b) any person purporting to act in any such capacity,

he as well as the legal person is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a legal person are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director.

(3) Where an offence under this Ordinance is committed by an unincorporated body and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of –

- (a) in the case of a partnership, any partner,
- (b) in the case of any other unincorporated body, any officer of that body who is bound to fulfil any duty whereof the offence is a breach or, if there is no such officer, any member of the committee or other similar governing body, or
- (c) any person purporting to act in any capacity described in paragraph (a) or (b),

that person as well as the unincorporated body is guilty of the offence and may be proceeded against and punished accordingly.

(4) Where an offence under this Ordinance is alleged to have been committed by an unincorporated body, proceedings for the offence must be brought in the name of that body and not in the name of any of its members.

(5) A fine imposed on an unincorporated body on its conviction of an offence under this Ordinance must be paid from the funds of that body.

(6) In this section, "**legal person**" includes any body corporate and any other body of persons on which legal personality is conferred by any enactment.

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

**43.** The Guernsey Committee 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 4(4),
- (b) section 14(2)(a),
- (c) section 21(1)(b),
- (d) section 22(2)(a),
- (e) section 23(3),
- (f) section 24(4),
- (g) section 27(3)(a), (4) or (5),
- (h) section 28(4)(a),

- (i) paragraph 5(2)(a) of Schedule 2, or
- (j) paragraph 4(1)(c) or (4)(b)(i) of Schedule 3.

**Exclusion of liability.**

44. (1) Subject to subsection (2), an empowered person is not liable in damages or personally liable in any civil proceedings in respect of anything done or omitted to be done after the commencement of this Ordinance in the discharge or purported discharge of the functions of the empowered person under this Ordinance, unless the thing was done or omitted to be done in bad faith.

(2) Subsection (1) does not apply so as to prevent an award of damages in respect of the act or omission on the ground that it was unlawful as a result of section 6(1) of the Human Rights (Bailiwick of Guernsey) Law, 2000<sup>g</sup>.

**Service of documents.**

45. (1) Any document to be given or served under, or for the purposes of, this Ordinance may be given or served –

- (a) on an individual, by being delivered to him, or by being left at, or sent by post or transmitted to, the individual's usual or last known place of abode,
- (b) on a company, by being left at, or sent by post or transmitted to, its registered office,
- (c) on an overseas company, by being left at, or sent by

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<sup>g</sup> Ordres en Conseil Vol. XL, p. 396; amended by Order in Council No. I of 2005; Recueil d'Ordonnances Tome XXIX, p. 406; and G.S.I. No. 27 of 2006.

post or transmitted to, its principal or last known principal place of business in the Island or, if there is no such place, its registered or principal office or last known registered or principal office elsewhere,

- (d) on an unincorporated body, by being given to or served on any partner, member, manager or authorised officer thereof in accordance with paragraph (a), or by being left at, or sent by post or transmitted to, the body's principal or last known principal place of business in the Island or, if there is no such place, its principal or last known principal place of business elsewhere, or
- (e) on the Guernsey Committee or a responsible officer, by being left at, or sent by post or transmitted to, the offices of the Corporate Headquarters of the Guernsey Committee at Rue Mignot, St Andrews, GY6 8TW or any other prescribed offices.

(2) In subsection (1) –

- (a) the expression "**by post**" means by recorded delivery service or ordinary letter post, and
- (b) the expression "**transmitted**" means transmitted by electronic communication, facsimile transmission or other similar means which produce or enable the production of a document containing the text of the communication; in which event the document is to be regarded as served when it is received.

(3) If a person notifies the Guernsey Committee or a responsible officer of an address for service within the Island for the purposes of this Ordinance, any document to be given to or served on the person may be given or served by being left at, or sent by post or transmitted to, that address.

(4) If service of a document cannot, after reasonable enquiry, be effected in accordance with this section, the document may be served by being published by the Guernsey Committee, or as the case may be, the responsible officer, in such manner and for such period as the Guernsey Committee or the responsible officer thinks fit, and a document served under this subsection is sufficient if addressed to the person for whom it is intended.

(5) Subsections (1) to (4) are without prejudice to any other lawful method of service.

(6) Notwithstanding subsections (1) to (5) and (8) and any other enactment or rule of law in relation to the service of documents, no document to be given to or served on the Guernsey Committee or a responsible officer under or for the purposes of this Ordinance is to be regarded as having been given or served until it is received.

(7) If a person upon whom a document is to be served under this Ordinance is a person under legal disability, the document must be served on the person's guardian; and if there is no guardian, the party wishing to effect service may apply to the Court of the Seneschal for the appointment of a person to act as guardian for the purposes of this Ordinance.

(8) A document sent by post is, unless the contrary is shown, deemed for the purposes of this Ordinance to have been received –

(a) in the case of a document sent to an address in the

United Kingdom, the Channel Islands or the Isle of Man, on the third day after the day of posting,

- (b) in the case of a document sent elsewhere, on the seventh day after the day of posting,

excluding in each case any day which is not a working day.

(9) Service of a document sent by post is to be proved by showing the date of posting, the address thereon and the fact of prepayment.

(10) In this section "**document**" does not include a summons.

(11) The provisions of this section are subject to any contrary provision under this Ordinance.

**General provisions as to Regulations.**

**46.** (1) Regulations under this Ordinance –

- (a) may be amended or repealed by subsequent Regulations made under this section,
- (b) may contain such consequential, incidental, supplemental and transitional provision as may appear to the Guernsey Committee to be necessary or expedient, and
- (c) must be laid before a meeting of the Chief Pleas of Sark as soon as possible and, if at that or the next meeting the Chief Pleas resolve to annul them, must cease to have effect, but without prejudice to anything done

under them or to the making of new Regulations.

(2) Any power conferred by this Ordinance to make Regulations may be exercised –

(a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified cases or classes of cases,

(b) so as to make, as respects the cases in relation to which it is exercised –

(i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),

(ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes,

(iii) any such provision either unconditionally or subject to any conditions specified in the Regulations.

**Interpretation.**

47. (1) In this Ordinance, unless the context requires otherwise –

"1983 Act" –

(a) means the Medical Act 1983<sup>h</sup>, and

(b) includes any subordinate legislation made under that Act,

**"1990 Law"** means the Health Service (Benefit) (Guernsey) Law, 1990<sup>i</sup>,

**"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 7(4),

**"annual charge"** means an annual charge prescribed under section 11,

**"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,

**"class"** means any class of registered practitioners specified in section 10(1),

**"concern"**, in relation to any practitioner, is any concern, allegation or complaint regarding the practitioner that has been raised by any person

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<sup>h</sup> An Act of Parliament (Chapter 54 of 1983).

<sup>i</sup> Ordres en Conseil Vol. XXXII, p. 192; as amended by Vol. XLIII(1), p. 246), Order in Council No. II of 2011 and Ordinance No. IX of 2016; there are other amendments not relevant to this provision.

(including a person specified in section 17(1)),

**"designated body"** has the meaning given by section 36,

**"discretionary grounds for refusal"** means the grounds specified in section 6 for discretionary refusal of an application for registration,

**"discretionary grounds for removal"** means the grounds specified in paragraph 2(1) or (2) of Schedule 3 for discretionary removal of a practitioner from the Sark Register,

**"empowered person"** means –

- (a) a responsible officer,
- (b) an authorised person within the meaning of section 21(4), or
- (c) the Panel or any member of it,

**"enactment"** means any Act, Law, Ordinance or subordinate legislation,

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

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<sup>j</sup> An Act of Parliament (Chapter 50 of 1997).

<sup>k</sup> UK S.I. 2009 No. 3215.

**"foundation official"** has the meaning given by the Foundations (Guernsey) Law, 2012<sup>**l**</sup>,

**"function"** includes any power or duty,

**"the Fund"** means the Professor Charles Saint Medical Trust,

**"general conditions"** means the conditions in Schedule 1,

**"General Medical Council"** means the General Medical Council continued as a body corporate by section 1 of the 1983 Act,

**"the Guernsey Committee"** means the States of Guernsey Committee for Health & Social Care,

**"the Guernsey and Alderney Ordinance"** means the Regulation of Health Professions (Medical Practitioners) (Guernsey and Alderney) Ordinance, 2015<sup>**m**</sup>,

**"information"** includes any photograph, document, statement or evidence, regardless of the manner or form in which it is kept or given,

**"Island"** means the island of Sark, including (for the avoidance of doubt) Brecqhou,

**"mandatory grounds for refusal"** means the grounds specified in section 5 for mandatory refusal of an application for registration,

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<sup>**l**</sup> Order in Council No. I of 2013.

<sup>**m**</sup> Guernsey Ordinance No. XXII of 2015, as amended by No. L of 2015.

**"mandatory grounds for removal"** means the grounds specified in paragraph 1 of Schedule 3 for mandatory removal of a practitioner from the Sark Register,

**"medical practitioners list"** means –

- (a) the register of medical practitioners kept by the Guernsey Committee under the Guernsey and Alderney Ordinance, or
- (b) any list of medical practitioners maintained under Regulations made under –
  - (i) section 91 of the National Health Service Act 2006<sup>n</sup>,
  - (ii) section 17P of the National Health Service (Scotland) Act 1978<sup>o</sup>,
  - (iii) section 49 of the National Health Service (Wales) Act 2006<sup>p</sup>, or
  - (iv) article 57G of the Health and Personal Social Services (Northern Ireland) Order 1972<sup>q</sup>,

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<sup>n</sup> An Act of Parliament (Chapter 41 of 2006) (UK).

<sup>o</sup> An Act of the Scottish Parliament (Chapter 29 of 1978).

<sup>p</sup> An Act of the Welsh Parliament (Chapter 42 of 2006).

<sup>q</sup> Northern Ireland S.I. No. 1265 of 1972 (N.I. 14).

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

**"non-Island responsible officer"** –

- (a) in relation to a registered practitioner in the UK Connected Practitioner class, means the practitioner's responsible officer determined in accordance with Regulations made under section 45A of the 1983 Act,
- (b) in relation to any other registered practitioner, means a person (however designated) discharging functions (under a relevant foreign enactment) in relation to the practitioner comparable to those of a responsible officer for the purposes of revalidation of medical practitioners under the 1983 Act, and
- (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,

**"this Ordinance"** includes any Regulations made under this Ordinance,

**"prescribed"**, in relation to any provision of this Ordinance, means prescribed for the purposes of the provision by Regulations made by the Guernsey Committee,

**"publicly-funded services"** means professional medical services (within the meaning given by section 1(5)) provided by the Sark doctor or

wholly or partly funded by the Fund,

**"register"**, in relation to any person, means register as a medical practitioner in the Sark Register, and **"registered"** and **"registration"** have corresponding meanings,

**"register information"** means information required by Regulations made under section 8(3)(a) to be entered into the Sark Register when the Guernsey Committee registers a medical practitioner,

**"registered practitioner"** or **"practitioner"** means a person registered as a medical practitioner in the Sark Register under this Ordinance,

**"Registration Panel"** or **"Panel"** has the meaning given by section 26(1),

**"relevant body or officer"** means a body or officer specified in the left-hand column of Schedule 8,

**"relevant foreign enactment"** means –

- (a) the Guernsey and Alderney Ordinance, or
- (b) any other enactment (in any country or territory) which is similar or comparable in purpose or effect to the 1983 Act or this Ordinance,

**"relevant purpose"**, in relation to any relevant body or officer, means the purpose specified in the right-hand column of Schedule 8 in relation to the relevant body or officer,

**"resolution notice"** means a resolution notice served under section 24,

**"responsible officer" –**

- (a) means the responsible officer for any class of practitioner under section 29(1) or (2),
- (b) in relation to a practitioner in any class, means the responsible officer for the class under section 29(1) or (2), and
- (c) in relation to any application for registration, means the responsible officer who, if the applicant were registered and classified under this Ordinance, would be responsible for the relevant class of practitioner under section 29(1) or (2),

**"the Sark Committee"** means the Medical and Emergency Services Committee of the Chief Pleas of Sark,

**"the Sark doctor" –**

- (a) means the person appointed or engaged by the Sark Committee to provide medical care to residents of and visitors to Sark under a contract entered into with that committee (acting on behalf of the Chief Pleas of Sark), and
- (b) includes any locum or other medical practitioner appointed or engaged by the person mentioned in

paragraph (a) to temporarily provide such medical care in the absence or incapacity of that person,

**"the Sark Register"** means the register established and maintained under Part II,

**"subordinate legislation"** means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any enactment and having legislative effect, and

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

(2) The Interpretation (Guernsey) Law, 1948<sup>r</sup> applies to the interpretation of this Ordinance as it applies to the interpretation of a Guernsey enactment.

(3) 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.

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**NOTE**

*The Interpretation (Guernsey) Law, 1948 has since been repealed by the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016, section 28(a), with effect from 1st October, 2018.*

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**Index of defined expressions.**

**48.** In this Ordinance, the expressions listed below are defined by the provisions specified –

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<sup>r</sup> Ordres en Conseil Vol. XIII, p. 355.

<b>Expression</b>	<b>Interpretation provision</b>
1983 Act	Section 47(1)
1990 Law	Section 47(1)
Additional conditions	Section 47(1)
Annual charge	Section 47(1)
Appealable decision	Section 28(10)
Authorised person	Section 21(4)
Benefit	Section 47(1)
Body	Section 47(1)
Class	Section 47(1)
Commencement date	Paragraph 1 of Schedule 9
Concern	Section 47(1)
The Court	Section 28(10)
Decision-maker	Sections 27(9) and 28(10)
Designated body	Sections 36 and 47(1); paragraph 1 of Schedule 7
Discretionary grounds for refusal	Section 47(1)
Discretionary grounds for removal	Section 47(1)
Empowered person	Section 47(1)
Enactment	Section 47(1)
Enhanced criminal record certificate	Section 47(1)
Existing Sark doctor	Paragraph 1 of Schedule 9
Foundation official	Section 47(1)
Function	Section 47(1)
The Fund	Section 47(1)
General conditions	Section 47(1)
General Medical Council	Section 47(1)

<b>Expression</b>	<b>Interpretation provision</b>
The Guernsey Committee	Section 47(1)
The Guernsey and Alderney Ordinance	Section 47(1)
Information	Section 47(1)
Island	Section 47(1)
Last application date	Paragraph 1 of Schedule 9
Mandatory grounds for refusal	Section 47(1)
Mandatory grounds for removal	Section 47(1)
Medical doctor	Section 2(6)
Medical practitioners list	Section 47(1)
National disqualification	Section 47(1)
Non-Island responsible officer	Section 47(1)
This Ordinance	Section 47(1)
Panel	Sections 26(1) and 47(1)
Practise as a medical practitioner	Section 1(4)
Practitioner	Section 47(1); paragraph 1 of Schedule 5; paragraph 1 of Schedule 6; paragraph 1 of Schedule 7
Prescribed	Section 47(1)
Professional medical services	Section 1(4)
Publicly-funded services	Section 47(1)
Register	Section 47(1)
Register information	Section 47(1)
Registered practitioner	Section 47(1)
Registration Panel	Section 47(1)

<b>Expression</b>	<b>Interpretation provision</b>
Relevant body or officer	Section 47(1)
Relevant foreign enactment	Section 47(1)
Relevant purpose	Section 47(1)
Resolution notice	Section 47(1)
Responsible officer	Section 47(1); paragraph 1 of Schedule 5; paragraph 1 of Schedule 6
Reviewable decision	Section 27(9)
The Sark Committee	Section 47(1)
The Sark doctor	Section 47(1)
The Sark Register	Section 47(1)
Subordinate legislation	Section 47(1)
The UK register	Section 47(1)

**Transitional and savings provisions.**

49. Schedule 9 has effect.

**Extent.**

50. This Ordinance has effect in Sark.

**Citation.**

51. This Ordinance may be cited as the Regulation of Health Professions (Medical Practitioners) (Sark) Ordinance, 2017.

**Commencement.**

52. This Ordinance shall come into force on the 1<sup>st</sup> June, 2017.

SCHEDULE 1

Section 9

GENERAL CONDITIONS APPLICABLE TO ALL PRACTITIONERS

**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 2      Sections 22(3), 24(7) and 25

POWERS OF RESPONSIBLE OFFICER FOLLOWING INVESTIGATION OF  
CONCERNS

1.      **Application of this Schedule.**

This schedule applies where a responsible officer decides that a concern investigated under section 21 has raised a substantive issue, unless –

- (a)      a resolution notice is served, and
- (b)      the concern is taken as resolved under section 24.

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 27 of this Ordinance, and
- (b)      giving the Guernsey Committee 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 Sark 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 Sark 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 27 of this Ordinance, and
  - (b) giving the Guernsey Committee 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 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 this paragraph, 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 27 of this Ordinance, and
  - (b) giving the Guernsey Committee 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 Guernsey Committee 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 Guernsey Committee 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 28 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 Sark Register, until the decision takes effect.
- (12) A suspension under paragraph 3(1)(d) continues in force until the review or

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 Sark Register is to be treated as if the practitioner is not registered (except for the purposes of removal from the Sark 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 Sark Register under one or more of the discretionary grounds for removal from the Sark Register.

REMOVAL OF PRACTITIONERS FROM REGISTER

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

The Panel must remove a practitioner from the Sark Register if –

- (a) the practitioner does not satisfy or no longer satisfies any requirement of 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, or
- (d) the practitioner has died.

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

(1) The Panel may remove a practitioner from the Sark 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) if that practitioner has been registered for 12 months or longer, during the preceding 12 months, and
  - (ii) if that practitioner has been registered for less than 12 months, within a reasonable period of time 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 11(6)(a),
  - (d) 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
  - (f) 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 Sark Register.
- (2) The Panel may also remove a practitioner from the Sark 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<sup>S</sup>, 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 Sark 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 Sark Register or any medical practitioners list, or

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<sup>S</sup> Ordres en Conseil Vol. XXVI, p. 292; Vol. XXVII, pp. 238, 307 and 392; Vol. XXIX, pp. 24, 148 and 422; Vol. XXXII, p. 59; Vol. XXXIV, p. 510.; Vol. XXXV(1), p. 161; Vol. XXXVI, pp. 123 and 343; Vol. XXXIX, p. 107; Vol. XL, p. 351; Vol XLI, p. 267; Vol. XLII (2), p. 1230 and Vol. XLIII, p. 813; Order in Council No. XI of 2004 and No. XVIII of 2007; Recueil d'Ordonnances Tome XXVI, p. 177; Tome XXXIII, p. 666; Ordinance No. XVII of 2011; No. XXXVIII of 2012, No. XXX of 2013 and No. IX of 2016.

- (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 Sark 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 Committee for Employment and Social Security 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 Sark 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 Sark Register or the list, or
  - (iv) is currently suspended from the Sark 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 Sark Register 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 Sark 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 Sark 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 Sark Register.
- (4) If the Panel decides to remove the practitioner from the Sark Register, the Panel –
  - (a) must give the practitioner written notice to of the decision, including the reasons for it and a copy of section 28 of this Ordinance, and
  - (b) may order the Guernsey Committee to remove the practitioner from the Sark 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 Sark 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 Sark 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 Guernsey Committee to re-register the practitioner without the need for the practitioner to provide an application that complies with section 3(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 4

Section 26

MODIFICATIONS TO SCHEDULE D1 TO THE GUERNSEY AND ALDERNEY  
ORDINANCE

For the purposes of this Ordinance, Schedule D1 to the Guernsey and Alderney Ordinance has effect in relation to the Panel and its members, subject to the following modifications –

- (a) for "the Islands", wherever it occurs, substitute "Sark, including (for the avoidance of doubt) Brecqhou",
- (b) for paragraph 3 of that schedule, substitute the following paragraph –

**"3. Annual report.**

- (1) As soon as practicable after the end of each calendar year, the Panel must submit a written report to the Chief Pleas of Sark 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 in relation to the Regulation of Health Professions (Medical Practitioners) (Sark) Ordinance, 2017, 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 Sark Register, and the number removed from the Sark Register by the Panel,

and

- (c) any other information required by Resolution of the Chief Pleas of Sark.
- (3) The Panel must send its annual report to the Sark Committee for submission to the Chief Pleas on the Panel's behalf.", and
- (c) in paragraph 4(1) of that schedule, immediately after "States of Guernsey", insert "or the Chief Pleas of Sark".

FUNCTIONS OF RESPONSIBLE OFFICERS FOR LOCAL PRACTITIONERS

**1. Interpretation of this schedule.**

In this Schedule –

"**practitioner**" means a registered practitioner in the Local Practitioners class, and

"**responsible officer**" means the responsible officer appointed for the Local Practitioners class.

**2. Duties of responsible officer – appraisals and fitness to practise.**

(1) In relation to the evaluation of the fitness to practise of every practitioner, the responsible officer must –

(a) assess –

(i) whether the practitioner undergoes regular appraisals, and

(ii) whether those appraisals satisfy the requirements of subparagraph (2), and

receive such appraisals submitted by the practitioner,

(b) assess whether the designated body of the practitioner has established and is carrying out appropriate procedures, using appropriate persons, to investigate concerns about that practitioner's fitness to practise raised by any person,

- (c) where appropriate, take all reasonably practicable steps to investigate concerns about the practitioner's fitness to practise raised by any person,
- (d) where appropriate, refer concerns about the practitioner to a relevant body or officer for a relevant purpose,
- (e) take any steps necessary to protect patients, including recommend to the designated body of the practitioner that that practitioner should be suspended from practising as a medical practitioner or should have conditions or restrictions placed upon his or her practice,
- (f) where the practitioner is subject to conditions imposed by, or undertakings agreed with, the General Medical Council, monitor compliance with those conditions or undertakings,
- (g) make recommendations to the General Medical Council about the practitioner's fitness to practise,
- (h) maintain records of the practitioner's fitness to practise evaluations, including appraisals and any other investigations or assessments, and
- (i) communicate to the designated body of the practitioner any concerns held by the responsible officer regarding the discharge or adequate discharge of that designated body's functions under this Ordinance.

(2) The appraisals undertaken by a practitioner must –

- (a) be carried out by an appropriate person, and
  - (b) involve obtaining and taking into account all available information relating to the practitioner's fitness to practise in the work carried out by the practitioner during the appraisal period.
- (3) In carrying out functions under subparagraph (1), the responsible officer must seek and take into account the practitioner's comments, where appropriate.

**3. Duty to have regard to guidance.**

In carrying out functions under paragraph 2, the responsible officer must have regard to –

- (a) guidance given by the Secretary of State of the United Kingdom in accordance with the 1983 Act, and
- (b) guidance given by the General Medical Council, including Good Medical Practice and guidance on fitness to practise procedures to the extent that it relates to the nomination or appointment of responsible officers or their responsibilities.

FUNCTIONS OF RESPONSIBLE OFFICERS FOR UK CONNECTED  
PRACTITIONERS

1. **Interpretation of this schedule.**

In this Schedule –

**"practitioner"** means a registered practitioner in the UK Connected Practitioners class, and

**"responsible officer"** means the responsible officer appointed for the UK Connected Practitioners class.

2. **Duties of responsible officer – fitness to practise.**

(1) In relation to the evaluation of the fitness to practise of every practitioner, the responsible officer must –

- (a) where appropriate, take all reasonably practicable steps to investigate concerns about the practitioner's fitness to practise raised by any person,
- (b) where appropriate, refer concerns about the practitioner to the practitioner's responsible officer in the United Kingdom or to any other relevant body or officer for a relevant purpose, and
- (c) take any steps necessary to protect patients, including recommend to the designated body of the practitioner that that practitioner should be suspended from practising as a medical practitioner or should have conditions or restrictions placed upon his or her practice.

- (2) In carrying out functions under subparagraph (1), the responsible officer must seek and take into account the practitioner's comments, where appropriate.

**3. Duty to have regard to guidance.**

In carrying out functions under paragraph 2, the responsible officer must have regard to –

- (a) guidance given by the Secretary of State of the United Kingdom in accordance with the 1983 Act, and
- (b) guidance given by the General Medical Council, including Good Medical Practice and guidance on fitness to practise procedures to the extent that it relates to the nomination or appointment of responsible officers or their responsibilities.

SCHEDULE 7

Section 37

DUTIES OF DESIGNATED BODIES

**1. Interpretation of this schedule.**

In this Schedule –

"**designated body**", in relation to any practitioner, means the designated body of the practitioner, and

"**practitioner**" means any registered practitioner.

**2. Duties in relation to recruitment.**

(1) Subject to subparagraph (2), a designated body must –

- (a) ensure that a practitioner has qualifications and experience appropriate to the work to be performed,
- (b) ensure that a practitioner has sufficient knowledge of the English language necessary for the work to be performed in a safe and competent manner,
- (c) ensure that appropriate references for a practitioner are obtained and checked,
- (d) take any steps necessary to verify the identity of a practitioner, and
- (e) maintain accurate records of all steps taken for the purposes of complying with any duty applicable to the designated body under this paragraph.

- (2) The duties in subparagraph (1)(c) and (d) do not apply to a designated body, where the designated body is the practitioner himself or herself, but, for the avoidance of doubt, where the designated body is each of the partners of a firm and the practitioner is one of those partners, those duties are (jointly and severally) duties of the partners of the firm other than the practitioner.

**3. Duties in relation to monitoring conduct and performance.**

A designated body must ensure that adequate systems and procedures are in place –

- (a) to regularly review relevant information held by the designated body concerning the performance of a practitioner, including clinical indicators relating to outcomes for patients,
- (b) to identify any issues arising from that information, such as variations in individual performance, and
- (c) to ensure that steps are taken by or on behalf of the designated body to address any such issues.

**4. Duties in relation to concerns about conduct or performance.**

A designated body must ensure that adequate systems and procedures are in place –

- (a) to address concerns about the conduct or performance of a practitioner raised by any person,
- (b) where appropriate, for an appropriately qualified investigator to initiate an investigation into the conduct or performance of a practitioner,

*Consolidated text*

- (c) to ensure that any investigation into the conduct or performance of a practitioner takes into account any other relevant matters, such as systemic issues within the hospital or other administration in which the practitioner works, which may have contributed to the concerns identified,
- (d) to consider the need for further monitoring of the conduct or performance of a practitioner,
- (e) where appropriate, to ensure that such further monitoring takes place,
- (f) to ensure that a practitioner who is subject to procedures under this paragraph is kept informed about the progress of the investigation,
- (g) to ensure that procedures under this paragraph include provision for the practitioner's comments to be sought and taken into account where appropriate,
- (h) to take any steps necessary to protect patients,
- (i) to identify concerns and ensure that appropriate measures are taken to address these, including but not limited to –
  - (i) requiring the practitioner to undergo training or retraining,
  - (ii) offering rehabilitation services,
  - (iii) providing opportunities to increase the practitioner's

work experience, and

- (iv) addressing any systemic issues within the hospital or other administration in which the practitioner works, which may have contributed to the concerns identified, 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,

and

- (j) to maintain accurate records of all steps taken in accordance with this paragraph.

**5. Duty to have regard to guidance.**

In carrying out its functions under paragraphs 1, 2 and 3, the designated body must have regard to guidance given by the Secretary of State of the United Kingdom in accordance with the Health and Social Care Act 2008<sup>t</sup>.

**6. Duty to co-operate and provide information.**

A designated body must co-operate with and provide any information reasonably required by a relevant body or officer for a relevant purpose.

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<sup>t</sup> An Act of Parliament (Chapter 14 of 2008).

SCHEDULE 8

Section 47(1)

RELEVANT BODIES, OFFICERS AND PURPOSES

<b>Relevant body or officer</b>	<b>Relevant purpose</b>
A responsible officer.	The exercise or performance of any functions of a responsible officer under this Ordinance, or of any functions for the purposes of revalidation of medical practitioners under the 1983 Act.
The Guernsey Committee.	The exercise or performance of the Guernsey Committee's functions under or for the purposes of this Ordinance or any other enactment.
The General Medical Council or any of its committees, or any person authorised by the General Medical Council or any of its committees.	The exercise or performance of any functions under the 1983 Act.
Any non-Island responsible officer for a registered practitioner.	The exercise or performance of the non-Island responsible officer's functions under the 1983 Act or any relevant foreign enactment.
The Registration Panel or any member of the Panel.	The exercise or performance of any functions under or for the purposes of this Ordinance or the Guernsey and Alderney Ordinance.
A designated body.	The exercise or performance of any functions under or for the purposes of this Ordinance or the Guernsey and Alderney Ordinance.
The Committee for Employment and Social Security or the Health Service Advisory	The exercise or performance of any functions under or for the purposes of the Guernsey and Alderney Ordinance or the 1990 Law.

<b>Relevant body or officer</b>	<b>Relevant purpose</b>
Committee	
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.

SCHEDULE 9

Section 49

TRANSITIONAL AND SAVINGS

1. **Interpretation.**

In this schedule –

"**commencement date**" means the date specified in section 52 for this Ordinance to come into force,

"**existing Sark doctor**" means the person who, immediately before the commencement date, is the Sark doctor, and

"**last application date**" means the date which is two months following the commencement date.

2. **Transitional provisions for existing Sark doctor.**

(1) Subject to subparagraph (2), for the purposes of this Ordinance –

(a) the existing Sark doctor is deemed to have been duly registered as a medical practitioner in the Sark Register on the commencement date, and

(b) for the avoidance of doubt, section 36 has effect accordingly, so that any person who would be the designated body of the existing Sark doctor if the existing Sark doctor were registered in accordance with section 3 is to be regarded as the designated body of that existing Sark doctor.

(2) Subparagraph (1) has effect until –

(a) the last application date, if the existing Sark doctor has not

made an application for registration in accordance with section 3 on or before that date, or

(b) where the existing Sark doctor has made an application for registration in accordance with section 3 on or before the last application date –

(i) if the application is granted, the date on which the existing Sark doctor is registered under section 3(3) as a result of that application, or

(ii) where the application is refused –

(A) the expiry of the period of one month from the date of refusal, if no civil proceedings are filed by or on behalf of the existing Sark doctor to challenge or overturn the refusal of the application in a court in the Island within the one-month period, and

(B) if any such proceedings are filed within the one-month period, the date on which those proceedings are finally determined or withdrawn.

(3) For the purposes of subparagraph (2)(b)(ii)(B), proceedings are finally determined when –

(a) the court determines those proceedings and any period for appealing the determination expires without any appeal being made against that determination, or

- (b) if an appeal against the court's determination is made within the period for appeal, when the appeal is finally determined or withdrawn.

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<sup>1</sup> The Ordinance was previously modified by the Emergency Powers (Coronavirus) (Temporary Registration of Health Professionals) (Bailiwick of Guernsey) Regulations, 2020, regulation 1(c), Schedule, paragraph 3, with effect from 2nd April, 2020; the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) Regulations, 2020, regulation 19(c), Schedule 1, paragraph 3, with effect from 16th April, 2020; the Emergency Powers (Coronavirus) (General Provision) (Bailiwick of Guernsey) (No. 2) Regulations, 2020, regulation 19(c), Schedule 1, paragraph 3, with effect from 15th May, 2020.