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STATUTORY INSTRUMENTS

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**1987 No. 2174**

**MEDICAL PROFESSION**

**The General Medical Council Health Committee  
(Procedure) Rules Order of Council 1987**

<i>Made</i>	- - - -	<i>16th December 1987</i>
<i>Laid before Parliament</i>		<i>17th December 1987</i>
<i>Coming into force</i>	- -	<i>14th January 1988</i>

Whereas in pursuance of paragraph 1 of Schedule 4 to the Medical Act 1983<sup>(1)</sup>, the General Medical Council have made the General Medical Council Health Committee (Procedure) Rules 1987:

And whereas by sub-paragraph (5) of the said paragraph 1 such Rules shall not come into force until approved by order of the Privy Council:

Now, therefore, Their Lordships, having taken the said Rules into consideration, are pleased to, and do hereby, approve the same as set out in the Appendix to this Order.

This Order may be cited as the General Medical Council Health Committee (Procedure) Rules Order of Council 1987, and shall come into force on 14th January 1988.

*G. I. de Deney*  
Clerk of the Privy Council

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SCHEDULE 1 — *Provisions as to meetings of the Committee*

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The General Medical Council, in exercise of their powers under paragraph 1 of Schedule 4 to the Medical Act 1983, and after consulting such bodies representing medical practitioners as appeared to the Council to be requisite, as required by that paragraph, hereby make the following rules:—

### PART I

#### PRELIMINARY

##### **Citation and Commencement**

1. These rules may be cited as the General Medical Council Health Committee (Procedure) Rules and shall come into force on 14th January 1988.

##### **Interpretation**

- 2.—(1) In these rules, unless the context otherwise requires —
- “the Act” means the Medical Act 1983;
  - “the Committee” means the Health Committee;

“complainant” means a body or person by whom a complaint has been made to the Council;

“the Council” means the General Medical Council or a Committee of the Council acting under delegated power;

“defence society” means the Medical Defence Union, the Medical Protection Society, or the Medical and Dental Defence Union of Scotland;

“The Preliminary Proceedings Committee and Professional Conduct Committee (Procedure) Rules” means the rules made by the General Medical Council for those Committees in exercise of the powers conferred on the Council by paragraphs 1 and 5 of Schedule 4 to the Act and references to those rules are to the rules currently in force and, unless the contrary intention appears, to those rules as amended.

“the Legal Assessor” means an Assessor appointed by the Council under paragraph 7 of Schedule 4 to the Act;

“medical adviser” means, in relation to “the practitioner” as defined in this rule, any other registered medical practitioner (but not more than one) whom the practitioner has consulted as a patient in regard to his own health and whom the practitioner elects to treat as his medical adviser for the purpose of proceedings under these rules;

“medical assessor” means a person chosen by the President in accordance with the Second Schedule to the rules to advise the Committee;

“medical examiner” means a person chosen in accordance with the Second Schedule to the rules by the President to examine and report on a practitioner;

“medical supervisor” means, in relation to “the practitioner” as defined in this rule, any registered medical practitioner appointed under these rules to supervise and report on the fitness to practise of the practitioner;

“person acting in a public capacity” means an officer of a Health Authority, Health Board, Common Services Agency or Board of Governors of a Hospital or of a Local or Area Medical Committee, or Family Practitioner Committee, of a Hospital Medical Staff Committee or body exercising similar functions, or of a Licensing Body (that is a university or other body granting primary United Kingdom qualifications) acting as such, or of a Government Department or a local or public authority, or any person holding judicial office, or any officer attached to a Court, or the Solicitor to the Council;

“the practitioner” means a person registered (in any way) under the Act whose fitness to practise has been called into question by reason of a physical or mental condition, and includes a person whose registration is currently suspended;

“Preliminary Proceedings Committee” and “Professional Conduct Committee” respectively means the Committees of those names constituted under section 1 of, and in accordance with the provisions of Schedule 1 to, the Act;

“the President” means the President of the Council and includes any other member appointed under rule 5(2) or (3) or exercising the President’s powers or functions under rule 5(4);

“the Register”, in relation to fully or provisionally registered persons, means the Register of Medical Practitioners, and in relation to persons with limited registration means the Register of Medical Practitioners with Limited Registration;

“the Registrar” means the Registrar of the Council;

“the Solicitor” means any solicitor, or any firm of Solicitors appointed by the Council, or any partner of such a firm, and references to the Solicitor in these rules shall be deemed to include Counsel representing the Solicitor in accordance with the provisions of rule 17(4);

- (2) In these rules, unless the context otherwise requires, a reference —
- (a) to a numbered rule or Schedule is to the rule in or Schedule to these rules bearing that number;
  - (b) in a rule or Schedule to a numbered paragraph is to the paragraph in that rule or Schedule bearing that number;
  - (c) in a paragraph to a lettered sub-paragraph is to the sub-paragraph in that paragraph bearing that letter.

### **Times and places of meetings of the Committee**

3. The provisions of Schedule 1 shall have effect as to the times and places of meetings of the Committee, and the mode of summoning members.

### **Selection of medical assessors and medical examiners**

4. The provisions of Schedule 2 shall have effect as to the nomination of medical assessors and medical examiners and the selection of a particular person to act as a medical assessor or examiner in any case, and the duties of medical assessors.

## **PART II**

### **ARRANGEMENTS FOR THE INITIAL CONSIDERATION OF CASES**

#### **Appointment of member to conduct initial consideration of cases**

- 5.—(1) No case shall be considered by the Committee unless it has been referred either —
- (a) by the President; or
  - (b) by the Preliminary Proceedings Committee in accordance with the Preliminary Proceedings Committee and Professional Conduct Committee (Procedure) Rules; or
  - (c) by the Professional Conduct Committee in accordance with paragraph 4 of Schedule 4 to the Act.

(2) The Council shall appoint the President or, if he proposes to sit on the Committee or for other reasons does not wish to be so appointed, some other member of the Council nominated by him, to undertake the initial consideration of cases under this Part of these rules.

(3) The President may nominate a second member of the Council for appointment by the Council to undertake or assist in the consideration of cases under this Part of these rules, where the President or other member nominated and appointed under paragraph (2) is for any reason unable to act.

(4) Without prejudice to the generality of the foregoing, if at any time the President is absent or unable to act, anything authorised or required by these rules to be done by the President may be done by any other member of the Council authorised in that behalf by the President or (if the President be unable to give authority) authorised by the Council.

#### **Information raising question as to practitioner's fitness to practise**

6.—(1) Where information in writing or a complaint in writing is received by the Registrar about any practitioner which raises a question whether the fitness to practise of the practitioner is seriously impaired by reason of his physical or mental condition the Registrar shall submit the information to the President.

(2) Unless the information or complaint has been received from a person acting in a public capacity the matter shall not proceed further unless and until there has been furnished to the satisfaction of the President one or more statutory declarations or other affidavits in support thereof; and every such statutory declaration or other affidavit shall state the address and description of the deponent and the ground for his belief in the truth of any fact therein which is not within his personal knowledge.

(3) On receipt of the information or complaint the President may cause such inquiries to be made in relation to the matter as he may think fit.

(4) Subject to paragraphs (5) and (6), unless it appears to the President that the matter need not proceed further he shall direct the Registrar to write to the Practitioner —

- (a) notifying him that information has been received which appears to raise a question whether his fitness to practise is seriously impaired by reason of his physical or mental condition and indicating the nature of the alleged condition;
- (b) either
  - (i) inviting him to agree within 14 days to submit to examination by at least two medical examiners to be chosen by the President and to agree that such examiners should furnish to the President reports on his fitness to practise; or
  - (ii) if the information received by the Council includes reports on the practitioner by other medical practitioners who have recently examined him, and it appears to the President that such reports afford sufficient medical evidence that the practitioner's fitness to practise may be seriously impaired by reason of a physical or mental condition, so informing him;
- (c) informing him that it is also open to him to nominate other medical practitioners to examine him and report to the President on his fitness to practise;
- (d) inviting him to submit any observations or other evidence which he may wish to offer as to his own fitness to practise; and
- (e) informing him that if he refuses to be examined or if, having agreed, he subsequently fails to submit to medical examination, or if he does not reply within 28 days, the matter may be referred to the Committee forthwith.

(5) Subject to the provisions of paragraph (6) the President may direct the Registrar to enclose with any letter sent under paragraph (4) a summary of the information received by the Council and copies of any reports on the practitioner by other medical practitioners who have recently examined him.

(6) If in the opinion of the President such reports contain any material which is not relevant to the present fitness to practise of the practitioner, and also which it would not be in the best interests of the practitioner to see, the President may direct the Registrar to exclude such material from the documents sent to the practitioner under this rule. Any material so excluded shall not subsequently be presented to the Preliminary Proceedings Committee or to the Committee.

### **Medical Examination**

7.—(1) If the practitioner agrees to submit to medical examination in response to an invitation sent under rule 6(4) the Registrar shall make arrangements for such examination. The medical examiners shall be chosen by the President in accordance with the provisions of Schedule 2.

(2) The Registrar shall send to the medical examiners chosen under the foregoing paragraph and any medical practitioners nominated under rule 6(4)(c) the information received by the Council and shall ask them to report to the President —

- (a) on the fitness of the practitioner to practise, either generally or on a limited basis; and
- (b) on their recommendations, if any, as to the management of his case.

**Action following consideration of reports on medical examination**

8.—(1) Subject to the provisions of paragraph (2), the President shall cause the Registrar to send copies of the reports received from the medical examiners, including any reports by medical practitioners nominated by the practitioner under rule 6(4)(c), to the practitioner.

(2) If in the opinion of the President the reports, other than any made by a medical practitioner nominated under rule 6(4)(c), contain any material which is not relevant to the fitness to practise of the practitioner and which it would not be in the best interests of the practitioner to see, the President may direct the Registrar to exclude such material from the reports. No material so excluded shall subsequently be presented to the Preliminary Proceedings Committee or to the Committee.

- (a) Where the medical examiners and any medical practitioners nominated under rule 6(4)(c) report unanimously that the practitioner —
  - (i) is not fit to practise, or
  - (ii) is not fit to practise except on a limited basis or under medical supervision or both, or
  - (iii) suffers from a recurring or episodic physical or mental condition which, although in remission at the time of the examination, may be expected in future to render him unfit to practise or unfit to practise except on a limited basis or under medical supervision or both,

the President shall, subject to the provisions of paragraph (7), direct the Registrar so to inform the practitioner by letter, and to invite him to state within 28 days from the date on which such a letter was despatched whether he is prepared to undertake voluntarily to comply with the recommendations in the reports as to the management of his case, including any limitations on his practice which they recommend.

- (b) Where the medical examiners and any medical practitioners nominated under rule 6(4)(c) do not report unanimously, the President shall, subject to the provisions of paragraph (7), direct the Registrar to invite the practitioner by letter to state within 28 days from the date on which such a letter was despatched whether he is prepared to undertake to comply with such arrangements for the management of his case, including any limitations on his practice, as the President may consider appropriate in the light of the balance of opinion in the reports, and which shall be specified in such letter; and in the following provisions of this rule, and in rule 9, references to recommendations include, where appropriate, references to such arrangements.

(4) If, within 28 days, the practitioner undertakes to comply with the recommendations as to the management of his case, including any recommended limitations on his practice, the President may then, if satisfied that the undertaking is being observed, postpone further action on the case, and cause the practitioner to be so informed.

(5) If the practitioner does not within 28 days (or such further period as the President may allow) undertake to accept the recommendations as to the management of his case or as to the limitations on his practice, or if the practitioner does not reply within 28 days to any letter sent to him for the purpose of paragraph (3), or if he has refused or failed to submit to the medical examination indicated in rule 6(4)(b), the President may, if he thinks fit, and subject to the provisions of the following paragraph, refer the information received, together with any reports received from the medical examiners, to the Committee.

(6) Before referring a case to the Committee under this rule the President shall consult not less than two other members of the Council who have been appointed in accordance with the Third Schedule to these rules and shall take account of their views in reaching his decision on the action to be taken.

(7) If it appears to the President, from the reports of the medical examiners and any medical practitioners nominated under rule 6(4)(c) or from any other information which the Council has received, that the condition of the practitioner is such that he would not be able to give an undertaking as contemplated in paragraphs (3) and (4), or that he could not be relied on to comply with such an undertaking, the President may, subject to the provisions of paragraph (6), refer the case to the Committee without seeking any such undertaking from the practitioner.

### **Provisions applying where a practitioner has undertaken to comply with the recommendations of the medical examiners**

9.—(1) Where under rule 8(4) the President has postponed further action on a case on the undertaking by a practitioner to comply with the recommendations on the management of his case, including any recommended limitations on his practice, the President may, for the purpose of satisfying himself that the undertaking is being observed, request one or more medical practitioners to supervise the management of the practitioner's case and to report if necessary on the practitioner's observance of his undertakings and on his fitness to practise.

(2) If, as a result of a report from a medical supervisor or from other information, it appears to the President that the recommendations with which a practitioner has undertaken under rule 8(4) to comply should be varied or should cease to apply, he may invite the practitioner to comply for a further period with such varied recommendations as appear to him to be appropriate, or may direct that the recommendations should no longer apply.

(3) If, as a result of a report from a medical supervisor or from other information, it appears to the President either that the practitioner has ceased to observe an undertaking given under rule 8(4) or that his physical or mental condition has otherwise deteriorated, the President may then refer the case to the Committee, or in accordance with Rule 10 to the Preliminary Proceedings Committee.

(4) Before referring a case to the Committee under this rule the President shall consult not less than two other members of the Council who have been appointed in accordance with Schedule 3 and shall take account of their views in reaching his decision on the action to be taken.

### **Reference to the Preliminary Proceedings Committee**

10.—(1) If in the opinion of the President it may be desirable, having regard to the circumstances of any case, that an order for interim suspension or interim conditional registration should be made by the Preliminary Proceedings Committee before that case is considered by the Committee, the President may, instead of referring the case to the Committee under rule 8 or 9, either remit it to the person appointed under rule 4 of the Preliminary Proceedings Committee and Professional Conduct Committee (Procedure) Rules for reference to the Preliminary Proceedings Committee or, if he is himself that person, remit the case to that Committee.

(2) Where a case is referred to the Preliminary Proceedings Committee under the foregoing paragraph, rules 11 to 13 and 15 to 16 of those rules shall then apply with the exclusion of the references in those rules to the Professional Conduct Committee.



**Provisions applying when a case has been referred to the Committee by the Preliminary Proceedings Committee or by the Professional Conduct Committee**

11.—(1) Where a case has been referred by the Preliminary Proceedings Committee or by the Professional Conduct Committee to the Committee the President may, if he thinks fit, direct the Registrar to invite the practitioner to submit to examination, before his case is considered by the Committee, by one or more medical examiners to be chosen by the President from among those nominated under Schedule 2 and, if the practitioner so elects, by another medical practitioner nominated by him, and to agree that such examiners should furnish to the Committee reports on the practitioner's fitness to practise, either generally or on a limited basis, with recommendations for the management of his case.

(2) If the practitioner agrees to submit to examination as aforesaid the Register shall make arrangements for such examination and any reports received shall be referred to the Committee, together with the information on which the Preliminary Proceedings Committee or the Professional Conduct Committee, as the case may be, decided to refer the case.

## PART III

### INITIAL HEARINGS BY THE COMMITTEE

#### Notice of referral

12.—(1) Subject to rule 11, as soon as practicable after a case has been referred to the Committee the Registrar shall serve on the practitioner a notice, in these rules called 'a notice of referral', which shall —

- (a) indicate the physical or mental condition by reason of which it is alleged that his fitness to practise is seriously impaired;
- (b) inform him that the matter has been referred to the Committee for them to determine whether his fitness to practise is so impaired and, if so, the appropriate action to be taken, in accordance with these rules, in his case;
- (c) state the day, time and place of the hearing of the case; and
- (d) invite the practitioner to state whether he proposes to attend the meeting of the Committee, and inform him that it is open to him to be represented thereat as provided in rule 17(2) and also to be accompanied by his medical adviser.

(2) Except with the agreement of the practitioner no case shall be heard by the Committee at any date earlier than 28 days after the date of posting or other form of service of the notice of referral.

(3) The Registrar shall send to the practitioner together with the notice of referral a copy of these rules and, subject to the provisions of paragraph (4), copies of any reports, written statements and other documents which it is proposed to present to the Committee, other than documents copies of which have already been sent to the practitioner under rule 6(5) or 8(1), and shall invite him to state whether, in the event that he proposes to attend, or be represented at, the meeting of the Committee, he wishes any of those documents to be supplemented by the oral testimony of its author. The Registrar shall also forward with the notice of referral an indication of any document which the Solicitor proposes to supplement by the oral testimony of its author at the hearing of the case and shall arrange for statements of that testimony to be sent to the practitioner before the hearing.

(4) The provisions of rule 8(2) shall apply to any documents sent under paragraph (3).

(5) The Registrar shall send to the complainant (if any) at his last known address notice of the day, time and place of the hearing.

#### **Postponement of hearing of a case**

**13.**—(1) The President may if he thinks fit postpone the hearing of a case to such later date or such later meeting of the Committee as he may determine.

(2) The Registrar shall, as soon as practicable, notify the practitioner, and any complainant, of any decision to postpone a hearing, and shall inform him or them at that time or as soon thereafter as practicable of the revised arrangements for the hearing.

#### **Cancellation of inquiry**

**14.**—(1) If it appears to the President, after a case has been referred to the Committee, that the referral should be cancelled, he may make a direction to this effect: provided that in any case referred to the Committee by the Preliminary Proceedings Committee the President shall so direct only after consulting the present members of the latter Committee, and in accordance with the opinion of those members, or the majority of those opinions including his own opinion.

(2) Where the opinions of members of the Preliminary Proceedings Committee are equally divided, the President shall have an additional casting vote.

(3) In any case where there is a complainant the President shall communicate or endeavour to communicate with the complainant, with a view to obtaining the observations of the complainant as to whether the referral should not be cancelled; such communication shall take place, in respect of any case referred by the Preliminary Proceedings Committee, before the President consults with members of that Committee.

(4) As soon as may be after the giving of any direction under this rule the Registrar shall give notice thereof to the practitioner and to the complainant (if any).

#### **Preliminary circulation of evidence**

**15.** Before the meeting of the Committee the Registrar shall send to each member of the Committee, and to the medical assessors and any additional assessors chosen to advise the Committee on any case, copies of the notice of referral, of the documents sent to the practitioner under rule 6(5), 8(1) or 12(3), of any medical reports received in accordance with rules 7 or 11, and of any observations or other documents submitted by or on behalf of the practitioner.

#### **Medical assessors**

**16.** The President shall arrange for one or more medical assessors to attend any meeting of the Committee called to consider a case in accordance with these rules. Such assessors shall be chosen by the President in accordance with Schedule 2, and shall perform the duties set out in that Schedule.

#### **Hearings before the Committee**

**17.**—(1) The Committee shall sit in private.

(2) The practitioner shall be entitled to be present while his case is considered, and may also be represented by counsel or a solicitor, may be represented or accompanied by an officer of his defence society or of any other professional organisation or association of which he is a member or by any member of his family or by a friend, and may be accompanied by his medical adviser: provided that this paragraph shall not entitle the practitioner to be represented or accompanied by any person from whom oral evidence is to be required under rules 19 to 21.

(3) Where the practitioner is neither present nor represented the Committee may nevertheless proceed with the hearing if the Registrar is able to satisfy them that all reasonable efforts have been made in compliance with rule 37 to serve the notice of referral.

(4) The Solicitor may be represented by counsel.

(5) The complainant (if any) shall be entitled to appear before the Committee and may be represented by counsel or a solicitor: provided

(a) the complainant shall not be entitled to receive any medical reports or other confidential medical information in writing concerning the medical condition of the practitioner which the Council may have obtained; and

(b) if the practitioner makes an application to the Committee for the complainant to be excluded from any part of the proceedings at which the practitioner is himself entitled to be present on the grounds of his right to medical confidentiality, or if it appears to the Committee that the need to preserve medical confidentiality requires his exclusion, the Committee may direct that the complainant be so excluded, but no such direction shall apply to an announcement under any of these rules of a determination of the Committee.

#### **Documents before Committee**

**18.** Subject to the following provisions of these rules, the Committee may consider the fitness to practise of the practitioner on the basis of the reports, written statements and other documents circulated to members in accordance with rule 15, being documents which appear to the Committee to be relevant to the case before them.

#### **Oral Testimony**

**19.—**(1) Where the Registrar, at the time of serving the notice of referral or subsequently (but not later than 28 days before the date of the meeting), has invited the practitioner to state whether he requires any document which may be considered by the Committee to be supplemented by the oral testimony of its author, and the practitioner, not less than 14 days before the date of the meeting, states that he so requires then, subject to the following provisions of these rules, the document shall be presented to the Committee only if its author is called as a witness and is available to be questioned in accordance with the provisions of rule 20(3).

(2) If the practitioner gives his written agreement in relation to any particular document, paragraph (1) shall have effect as if the reference to 28 days or, as the case may be, to 14 days were a reference to such lesser periods as he may so agree.

(3) If the practitioner or his representative indicates at the hearing, not having given notice under paragraph (1) or (2), that he wishes any document presented by the solicitor to be supplemented by oral testimony from its author, the Committee shall consult the legal assessor as to whether, in the interests of justice, they should adjourn the hearing in order to permit the testimony to be given or whether they should proceed with the hearing on the basis of the documents before them.

(4) The Committee may, at any stage in their proceedings at their discretion,

(a) with the consent of the practitioner; or

(b) where, after consultation with the legal assessor, they are satisfied that its reception is desirable to enable them to perform their duty,

allow the Solicitor to adduce at the hearing any written statement, notwithstanding that a copy thereof has not been supplied to the practitioner in accordance with the foregoing provisions of these rules or that its author may not be called as a witness.

(5) Where, notwithstanding that a written statement has been presented to the Committee under the foregoing provisions of this rule without its author being called and being available as aforesaid, the Committee are of the opinion that it should be supplemented by oral testimony, they may request that the author be called as a witness and adjourn the hearing for the purpose and, on subsequently resuming the hearing, unless he gives oral testimony, the Committee shall be entitled to disregard the document.

#### **Procedure for presentation of the case**

**20.**—(1) The Chairman shall invite the complainant, if any, or his representative to address the Committee.

(2) If the practitioner is present or if the Committee proceed to hear the case in his absence, the Chairman may invite the Solicitor to present the case and to call witnesses to give oral testimony.

(3) Persons who are called as witnesses to give oral testimony on behalf of the Council shall be questioned by the Solicitor, and may be questioned by or on behalf of the practitioner, by the Committee, by any medical or additional assessor, and by the legal assessor.

#### **Presentation of the practitioner's case**

**21.**—(1) At the conclusion of any oral testimony given as aforesaid the Chairman shall invite the practitioner or his representative to address the Committee and to adduce evidence as to the practitioner's fitness to practise.

(2) Any witnesses called on behalf of the practitioner (including the practitioner) shall be questioned by or on behalf of the practitioner, and may be questioned also by the Solicitor, by the Committee, by any medical or additional assessor, and by the legal assessor.

(3) Where any evidence has been called on behalf of the practitioner (including any evidence given by the practitioner himself) the Chairman may invite the Solicitor to address the Committee.

(4) The practitioner or his representative may then address the Committee for a second time.

#### **Adjournment for further medical reports**

**22.** At the conclusion of proceedings under the foregoing rules, the Committee may adjourn the case in order to obtain further medical reports or other information as to the physical or mental condition of the practitioner or in relation to his fitness to practise.

#### **Postponement of finding**

**23.** If the Committee do not think fit to adjourn the case under the foregoing rule they shall consider whether to postpone their finding as to the practitioner's fitness to practise.

#### **Determination of the Committee**

**24.**—(1) If the Committee do not think fit to adjourn the case under rule 22 or to postpone their finding under rule 23, they shall consider and determine whether they judge the fitness to practise of the practitioner to be seriously impaired by reason of his physical or mental condition.

(2) In reaching their judgment the Committee shall be entitled to regard as current serious impairment either the practitioner's current physical or mental condition, or a continuing and episodic condition, or a condition which, although currently in remission, may be expected to cause recurrence of serious impairment.

(3) Where the practitioner has refused or, in the opinion of the Committee, has failed to submit to medical examination in accordance with rule 6(4)(b)(i), rule 11, rule 27, or rule 31(3) the Committee shall be entitled, if they think fit, to find that the practitioner's fitness to practise is seriously impaired on the basis of the information before them and the practitioner's refusal or failure to submit to medical examination.

(4) If the Committee judge the practitioner's fitness to practise to be seriously impaired by reason of his physical or mental condition, they shall next consider and determine whether it shall be sufficient to direct that the registration of the practitioner shall be conditional on his compliance, during such period not exceeding three years as the Committee may specify, with such requirements as the Committee may think fit to impose for the protection of members of the public or in his interests.

(5) If the Committee so determine they shall then consider and decide what conditions (of whatever nature) shall be imposed in accordance with section 37(1) of the Act and the Committee may impose more than one condition under this paragraph.

#### **Direction for suspension of registration**

**25.**—(1) If the Committee decide that it is not sufficient to impose conditions on the practitioner's registration they shall direct that the registration of the practitioner shall in accordance with section 37(1)(a) of the Act be suspended for such period not exceeding 12 months as the Committee may determine.

(2) If in any case the Committee determine to suspend the registration of a practitioner, the Committee shall also consider and determine whether it is necessary for the protection of members of the public or would be in the best interests of the practitioner to order that his registration shall be suspended forthwith.

#### **Announcement of determination**

**26.** The Chairman shall announce the determination or determinations of the Committee under the foregoing rules in such terms as the Committee may approve.

#### **Provision for resumed hearings**

**27.**—(1) In any case in which the Committee have adjourned the case or postponed their finding or imposed conditions on, or suspended, the registration of the practitioner for a period they shall, when announcing such decision, intimate that they will, at a meeting to be held before the end of such period, resume consideration of the case.

(2) The Committee may also indicate the medical reports as to the practitioner's fitness to practise, or other information, which they will require at the resumed hearing. Such evidence may include one or more reports from medical practitioners who have treated or supervised the practitioner, or both, since the time of the original hearing.

(3) The Committee may also require the practitioner to submit to examination by one or more medical examiners chosen by or on behalf of the Committee as provided in Schedule 2.

#### **Revocation of order for interim suspension or interim conditional registration**

**28.** If in any case referred by the Preliminary Proceedings Committee an order has been made by that Committee for interim suspension or for interim conditional registration, the Health Committee may if they think fit revoke such order.

### **Cases referred by the Professional Conduct Committee**

29. In any case referred by the Professional Conduct Committee the Committee shall, following their determination under rule 24(1) as to whether or not the fitness to practise of the practitioner is seriously impaired by reason of his physical or mental condition, certify their opinion on the matter to the Professional Conduct Committee in accordance with the requirements of paragraph 4 of Schedule 4 to the Act and shall notify the practitioner.

## **PART IV**

### **RESUMED HEARINGS BY THE HEALTH COMMITTEE**

#### **Direction for resumed hearing**

30.—(1) If, in any case where the Committee have suspended the registration of the practitioner, or imposed conditions upon his registration or have adjourned the case or postponed their finding, it appears to the President that the Committee should resume consideration of the case at an earlier meeting or date than that specified by the Committee, the President may direct the Registrar to notify the practitioner that the Committee will resume consideration of the case at such earlier meeting or date as the President shall determine.

(2) Without prejudice to the generality of the foregoing paragraph, where in any case the Committee have imposed conditions upon a practitioner's registration, and it appears to the President from information subsequently received that the practitioner is in a material respect not complying with such conditions, the President may exercise his powers under the foregoing paragraph.

(3) Before exercising his powers under paragraph (1) above, the President may invite the practitioner to submit to further medical examination as provided in rule 27(3).

(4) In any case in which the President has given a direction under paragraph (1) of this rule, the Committee shall then resume consideration of the case at the meeting determined by the President notwithstanding their earlier decision.

#### **Notice of resumed hearing**

31.—(1) Where under any of the foregoing rules the Committee have adjourned the case (except in the case of adjournment for less than 28 days), or have postponed their finding, or have imposed conditions upon the registration of the practitioner or have directed that his registration shall be suspended, or where the President has given a direction under rule 30, the Registrar shall not later than four weeks before the day fixed for the resumption of the proceedings send to the practitioner a notice which shall —

- (i) specify the day, time and place at which the proceedings are to be resumed and invite him to appear thereat;
- (ii) in any case where the President has exercised his powers under rule 30 state the nature of the information in consequence of which he has exercised his powers;
- (iii) inform the practitioner that it is open to him to be represented as provided in rule 17(2) and also to be accompanied by his medical adviser; and
- (iv) invite him to state whether he proposes to appear.

(2) Paragraphs (3), (4) and (5) of rule 12 shall apply to the sending of notices under this rule provided that, where a resumed hearing does not follow an adjournment, the practitioner may

require documents to be supplemented by oral testimony only if they are documents which have not previously been before the Committee at an earlier hearing.

- (3) Before issuing a notice under this rule the Registrar shall —
- (a) if the Committee or the President have so directed, invite the practitioner to submit to examination by the medical examiners chosen by the Committee or by the President from among those nominated under Schedule 2 and, if the practitioner so elects, by another medical practitioner nominated by him, and to agree that such examiners should furnish to the Committee reports on the practitioner's fitness to practise, either generally or on a limited basis, with recommendations for the management of his case; and
  - (b) if the Committee have so directed, invite the practitioner to furnish the names and addresses of medical practitioners or other persons to whom the Committee will be able to apply for information as to their knowledge of his fitness to practise since the last hearing of the case.

#### **Medical assessors at resumed hearing**

**32.** In choosing medical assessors to assist the Committee at any resumed hearing the President shall have regard to any opinion expressed by the Committee at the previous hearing as to the nature of the matters on which medical advice would be useful.

#### **Procedure at resumed hearing**

**33.** At any resumed hearing the procedure shall be that provided in Part III of these rules for the original hearing and the Committee may exercise any power which under that Part they could have exercised at the original hearing save that —

- (i) the Committee shall not extend any period of conditional registration for more than 12 months on any resumed hearing; and
- (ii) the Committee may revoke any previous direction for conditional registration or revoke or vary the conditions previously imposed on the practitioner's registration.

## **PART V GENERAL**

#### **Adjournment of proceedings**

**34.** The Committee may adjourn any of their proceedings or meetings from time to time as they think fit.

#### **Deliberation in camera**

**35.** Subject to the provisions of these rules the Committee may deliberate in camera at any time and for any purpose during any proceedings and for such purpose may exclude the practitioner, his representatives, and his medical adviser.

#### **Voting**

**36.** The following provisions shall have effect as to the taking of the votes of the Committee on any question to be determined by them —

(1) The Chairman of the Committee shall call upon the members present to signify their votes by raising their hands, signify his own vote, and declare the way in which the question appears to him to have been determined.

(2) If the result so declared by the Chariman is challenged by any member, the Chairman shall —

- (a) call upon each member severally to declare his vote;
- (b) announce his own vote; and
- (c) announce the number of members of the Committee who have voted each way and the result of the vote.

(3) If the votes are equal, the question shall be deemed to have been resolved in favour of the practitioner.

### **Service of documents**

**37.**—(1) For the purposes of these rules

- (a) a notice or communication authorised or required by rules 6(4), 8(1), 8(3), 11(1), 11(2), 12, 13, 14, 19 and 31(1) of these rules to be served on a practitioner by the Registrar may be served on the practitioner either by delivering it to him or by leaving it at his proper address or by sending it by registered post or by the recorded delivery service.
- (b) a practitioner's proper address shall be his address in the Register or, if his last known address differs from this address in the Register and it appears to the Registrar that a letter sent to him there is more likely to reach him, his last known address.
- (c) service of a notification effected by sending it by post shall, unless the context otherwise requires, be deemed to have been effected at the time when the letter containing it would be delivered in the ordinary course of post.

(2) In all other circumstances, communications to be sent for the purposes of these rules may be sent by post.

### **Notes and transcript of proceedings**

**38.**—(1) A shorthand writer shall be appointed by the Registrar to take shorthand notes of the proceedings of the Committee.

(2) The practitioner shall, on application to the Registrar and in payment of the proper charges, be furnished with a transcript of the shorthand notes of any part of the proceedings at which the practitioner was entitled to be present.

### **Revocation**

**39.** The General Medical Council Health Committee (Procedure) Rules 1980(2) are hereby revoked.



## SCHEDULE 1

### Provisions as to meetings of the Committee

1. The Committee shall meet on such days as the Chairman, Committee or Council may determine and at such time as the Chairman, may determine.
2. Members of the Committee shall be summoned to meetings of the Committee by the Registrar, by notice addressed to each member. Except in the case of a meeting held to resume the hearing of a case which has been adjourned or postponed for less than 28 days, such notice shall be sent not less than three weeks before the meeting to which it relates.
3. Meetings of the Committee shall be held at the offices of the Council unless the Council or in emergency the President shall otherwise direct.

## SCHEDULE 2

### Medical examiners and medical assessors

1. Subject to paragraph 4 of this Schedule medical examiners and medical assessors shall be chosen by the President or by the Committee from persons nominated by the following Bodies —

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Psychiatrists	The Royal Colleges and their Faculties
Neurologists Physicians	The Central Committee for Hospital Medical Services of the British Medical Association
Surgeons	
General Practitioners and other branches of medicine	The General Medical Services Committee

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2. Members of the Council shall not be eligible for nomination as medical examiners or as medical assessors.
3. The Council may from time to time determine the minimum number of persons to be nominated in respect of each branch of medicine, the periods for which nominations shall be made, and the intervals at which the lists of those nominated shall be revised and may give directions as to the nomination of persons on a geographical basis.
  - (a) Subject to paragraph (b) below, in choosing medical examiners and medical assessors to act in relation to particular cases, the President or Committee shall have regard to the nature of the physical or mental condition which is alleged to impair the practitioner's fitness to practise.
  - (b) In choosing medical assessors to advise the Committee the President shall include one assessor who is engaged in the same branch of medical practice as the practitioner.
  - (a) It shall be the duty of the medical assessors to be present at the proceedings before the Committee for which they have been chosen to act and to advise the Committee on the medical significance of the information before the Committee.

- (b) Medical assessors shall give such advice on questions referred to them by the Committee, and shall also advise the Committee of their own motion if it appears to them that, but for such advice, there is a possibility of a mistake being made in judging the medical significance of such information (including the absence of information) on any particular matter relevant to the fitness to practise of the practitioner.
6. If in any case referred to the Committee
- (a) the practitioner is a practitioner who was registered under Part III of the Act and the Committee do not include a member who was so registered, the President shall invite a member of the Council who was so registered to sit as an additional assessor with the Committee when they consider the case;
  - (b) the practitioner is female, and neither the Committee nor the medical assessors appointed under rules 16 or 32 include a woman, the President shall invite a female member of the Council, who is a registered medical practitioner, to sit as an additional assessor with the Committee when they consider the case.

### SCHEDULE 3

#### **Panel of members to assist the President**

1. For the purpose of assisting the President in deciding under rule 8(6) whether to refer a case to the Committee the Council shall maintain a panel of not less than six members of the Council, who shall be appointed by the President with the approval of the Council.
- (2) The members appointed for this purpose shall not be members of the Committee.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

The Rules approved by this Order, which revoke and replace the General Medical Council Health Committee (Procedure) Rules 1980(3), incorporate a number of drafting improvements and take account of the passing of the Medical Act 1983. In particular, the new Rules

- (a) specify more closely the role of the complainant in proceedings before the Council's Health Committee;
- (b) provide for the appointment of medical supervisors to treat, and monitor the progress of, doctors whose fitness to practice has been called into question; and
- (c) clarify the procedure, including the rules of evidence, to be observed at hearings before the Committee.