

STATES OF JERSEY



DRAFT MEDICAL PRACTITIONERS (REGISTRATION) (AMENDMENT No. 4) (JERSEY) LAW 201-

**Lodged au Greffe on 7th June 2011
by the Minister for Health and Social Services**

STATES GREFFE



Jersey

**DRAFT MEDICAL PRACTITIONERS
(REGISTRATION) (AMENDMENT No. 4) (JERSEY)
LAW 201-**

European Convention on Human Rights

In accordance with the provisions of Article 16 of the Human Rights (Jersey) Law 2000 the Minister for Health and Social Services has made the following statement –

In the view of the Minister for Health and Social Services the provisions of the Draft Medical Practitioners (Registration) (Amendment No. 4) (Jersey) Law 201- are compatible with the Convention Rights.

(Signed) **Deputy A.E. Pryke of Trinity**

REPORT

The current Medical Practitioners (Registration) (Jersey) Law 1960 is out of date and unfit for purpose –

- ◆ The Royal Court registers medical practitioners at the point of entry to practise in Jersey, and there is no mechanism for the Register to be kept up to date.
- ◆ The Minister for Health and Social Services has no role in this.
- ◆ The current Law refers only to registration of doctors and not to the new requirement (of the General Medical Council) that all practising doctors hold, and regularly revalidate, licences to practise.
- ◆ There are no local powers to investigate the fitness to practise of doctors in Jersey. There have been instances here in recent years where concerns about local doctors eventually triggered GMC national-level ‘fitness to practise’ proceedings. Doctors had continued practising in Jersey whilst recognised problems escalated.

The amended Law, as proposed, creates powers to remedy all of the above. It creates the basis for a system of local regulation of doctors, one of the commitments made in Proposition P.36/2010 – unanimously adopted by this Assembly.

The General Medical Council has affirmed that, with the changes as proposed, it will accept that Jersey doctors are working in a system with equivalent local regulation as is usual throughout the United Kingdom, and accept recommendations from Jersey’s statutorily appointed Responsible Officer(s).

This newly amended Law will create –

- ◆ A live Register of doctors, administered by the Minister of Health and Social Services and publicly available.
- ◆ New protection for patients in Jersey from poorly-performing doctors, and the means of supporting doctors in difficulty by detecting problems early and enabling remediation.
- ◆ A system that will enable doctors in Jersey to keep and regularly revalidate their GMC Licences to Practise – essential for maintaining medical manpower into the future, and Jersey’s standing as a jurisdiction with local regulation and standards at least as good as those elsewhere in the British Isles.

Financial and manpower implications

This Draft Law has no direct financial implications for the States, although subordinate legislation may well have some resource implications, which will be detailed at the time it is brought forward.

European Convention on Human Rights

Article 16 of the Human Rights (Jersey) Law 2000 requires the Minister in charge of a Projet de Loi to make a statement about the compatibility of the provisions of the Projet with the Convention rights (as defined by Article 1 of the Law). On 6th June 2011 the Minister for Health and Social Services made the following statement before Second Reading of this Projet in the States Assembly –

In the view of the Minister for Health and Social Services the provisions of the Draft Medical Practitioners (Registration) (Amendment No. 4) (Jersey) Law 201- are compatible with the Convention Rights.

Explanatory Note

This draft Law amends the Medical Practitioners (Registration) (Jersey) Law 1960 (the “principal Law”) in order to –

- take into account the changes, in the United Kingdom, for registration of medical practitioners and the additional requirement for a person practising medicine to hold a licence to practise (by virtue of which the requirement for ongoing revalidation of the fitness to practise of medical practitioners is imposed);
- provide for the criteria for registration in Jersey to be prescribed by Order of the Minister for Health and Social Services (the “Minister”) rather than appearing within the Law, so that the Jersey legislation may, in future, be updated, without delay, in response to changes in the United Kingdom; and
- provide for the Minister to administer the register of medical practitioners, in place of the Royal Court.

Broadly, the scheme remains a secondary registration scheme. That is to say, as long as a practitioner is authorized to practise in the United Kingdom, the practitioner is authorized to practise in Jersey, upon the same terms.

Article 1 is the interpretation provision.

Article 2 substitutes definitions in Article 1 of the principal Law. Definitions are added and removed consequentially upon the Minister becoming the registrar and upon the criteria for registration being prescribed by Order of the Minister instead of being stated within the principal Law.

Article 3 substitutes Articles 2, 3, 4 and 5 of the principal Law. The current Article 2 makes it an offence to practise medicine unless registered under the principal Law. The current Article 3 requires a person to be registered under the Medical Act 1983 in the United Kingdom in order to be registered in Jersey. The current Article 4 sets out the process for applying to the Royal Court for registration. The current Article 5 requires the Judicial Greffier to keep a list of registered medical practitioners and post it in the lobby of the Royal Court House.

The substituted Articles are as follows –

2 Restrictions on practice of medicine

This Article imposes restrictions on the practise of medicine.

A person may not hold himself or herself out as being registered or having any particular medical qualification or specialist title if the person is not in fact registered or does not have that qualification or specialist title.

A person may not practise medicine unless registered in Jersey. Article 1(2) of the principal Law already states that the practise of medicine includes “the performance of any such operation and the giving of any such treatment, advice or attendance as is usually performed or given by medical practitioners”.

A registered medical practitioner may only practise medicine in accordance with the conditions imposed on his or her registration in Jersey.

Non-compliance is an offence for which the penalty is a fine of up to level 4 on the standard scale (£5,000).

3 Register

This Article requires the Minister to maintain a register of medical practitioners.

4 List of registered medical practitioners to be kept

This Article requires the Minister to make a list of registered medical practitioners available for viewing by the public. The list would also include information regarding a practitioner's medical qualifications.

5 Application for registration as a medical practitioner

In future, an application for registration as a medical practitioner shall be made to the Minister. The application must be accompanied by proof that the applicant satisfies the conditions for registration. The Minister may charge a registration fee. Currently, a fee of £100 is payable on an application for registration to the Royal Court.

5A Registration

This Article describes the registration process. The Minister must register an applicant if satisfied that the applicant fulfils the conditions for registration that the Minister has prescribed by Order.

At present it is envisaged that registration in Jersey will continue to depend upon the applicant being authorized to practise in the United Kingdom. This will be specified in the Order made by the Minister. What will be different is that, for the future, in order to practise in the United Kingdom, a practitioner must be both registered with the General Medical Council and hold a licence to practise. It is a condition of the licence to practise that the practitioner complies with the requirements for revalidation, and a licence to practise may be withdrawn if the practitioner does not comply or is found to be unfit to practise.

By specifying the conditions for registration in an Order, the Minister also acquires the flexibility to permit the registration, in Jersey, of doctors authorized to practise in a jurisdiction other than the United Kingdom if, in the future, that was wanted.

There is an exception to the requirement for the Minister to register an applicant who satisfies the prescribed conditions. That exception arises where a person's registration has previously been cancelled and, at the time of cancellation, the Minister has directed that the person shall not be registered again within a period set by the Minister, but not exceeding 5 years.

If the Minister is minded to refuse an application, because the application is defective or incomplete or not accompanied by any required fee, the Minister must first give the applicant a chance to remedy the defect or omission.

If the Minister refuses to register the applicant, the Minister must tell the applicant why and refund any registration fee.

Article 10B(1)(a) confers a right of appeal against a refusal to register.

Article 5B Conditions of registration

Registration in Jersey may be subject to discretionary or mandatory conditions.

The Minister is given a discretion to impose conditions to protect the public, in the public interest or in the interests of the practitioner. This discretion would be used to impose temporary restrictions on a person's practice in the event of any shortcoming in the person's performance that was not so serious as to merit removal from the register but which merited, for example, a requirement for supervision or a restriction on the types of activity undertaken by the practitioner. A restriction could not remain in force for more than 18 months without a decision by the Minister to renew it. Before a discretionary condition is imposed or renewed, the Minister must give the practitioner the opportunity to make representations.

The Minister may also prescribe, by Order, mandatory conditions of registration that would apply to all registered practitioners equally. The sort of mandatory conditions that might be imposed would be –

- a condition that the practitioner complies with any condition imposed on his or her registration in the United Kingdom;
- a requirement to notify the Minister, as registrar, of any change in the status of the practitioner's registration in the United Kingdom.

Because mandatory conditions are imposed on all practitioners equally, there is no right of appeal against them.

Article 5C Certificate of registration

This Article requires the Minister to issue a certificate of registration to a registered medical practitioner.

Article 5D Requirement to make an annual return

One of the shortcomings of the present register of practitioners is that there is no mechanism for updating it to reflect a practitioner's change of name or address, change in qualifications, departure from the Island or death. By requiring a practitioner to make an annual return to the Minister of basic information, that will be prescribed by Order, this Article will remedy that shortcoming.

Article 4 amends Article 7 of the principal Law. Article 7 currently makes it an offence to forge, or allow another person to use, a certificate of registration issued under the Medical Act 1983. As amended, the Article would widen the offence to any certificate or document that is required to accompany an application for registration under the principal Law.

Article 5 substitutes Articles 8, 9 and 10 of the principal Law. Currently, Article 8 requires the Royal Court to remove a practitioner's name from the Jersey register when the practitioner's name is removed from the register maintained under the Medical Act 1983. Article 9 requires the Court to suspend a practitioner's registration in Jersey if that practitioner's registration under the Medical Act 1983 is suspended. Article 10 confers a discretion on the Royal Court to cancel a practitioner's registration in Jersey if convicted of an offence or if the practitioner is guilty of any infamous or disgraceful conduct in a professional respect. In each case, the Royal Court does not act of its own volition, but upon the motion of the Attorney General.

The effect of the substituted Articles is as follows –

Article 8 Request for cancellation of registration

This Article introduces a new right for a practitioner to ask that his or her registration is cancelled – for example, where the practitioner is leaving the Island and wishes to be released from the requirement to make an annual return, imposed by the inserted Article 5B.

Article 9 Cancellation of registration otherwise than on request

This Article requires the Minister to cancel a practitioner's registration in certain circumstances and confers a discretion on the Minister to cancel a practitioner's registration in other circumstances.

The Minister must cancel a practitioner's registration in Jersey if –

- the practitioner ceases to fulfil the prescribed requirements for registration (which, on enactment, will be the requirement to be registered with the General Medical Council and to hold a licence to practise);
- the practitioner's registration in Jersey was obtained by fraudulent means; or
- the practitioner, despite having been given 60 days notice by the Minister, has failed to make the annual return required by the inserted Article 5D, above.

The Minister has a discretion to cancel a practitioner's registration in Jersey if –

- the practitioner is convicted of an offence, or engages in conduct, that makes the person unfit to be a medical practitioner;
- the practitioner does not comply with any discretionary or mandatory condition of his or her registration;
- the practitioner has engaged in behaviour that would contravene a condition of the qualification or authority issued in another jurisdiction by virtue of which the practitioner is registered in Jersey (on enactment, this would mean a contravention of the person's registration with the General Medical Council or licence to practise issued under the auspices of that Council).

If the person's registration in Jersey is cancelled by reason that it was obtained fraudulently or in the exercise of the Minister's discretionary powers, described above, the Minister has a discretion to direct that the person shall not be re-registered in Jersey for a specified period, which must not exceed 5 years.

In all cases, the Minister must give the practitioner an opportunity to make representations before his or her registration in Jersey is cancelled.

When a practitioner's registration in Jersey is cancelled, the Minister must notify the practitioner of the Minister's reasons for the decision.

Ordinarily, cancellation takes effect upon the practitioner being notified of it. However, if the practitioner appeals against the Minister's decision, the Minister is obliged to restore the practitioner's registration until the appeal is determined, unless the case is so serious that cancellation pending the appeal is justified.

Article 10B(1)(c) and (d) confer a right of appeal against cancellation of registration and against the issue of a direction prohibiting the re-registration of the practitioner within a specified period.

Article 10 Suspension

This Article describes circumstances in which a practitioner's registration must be suspended, and circumstances in which it may be suspended.

The Minister must suspend a practitioner's registration in Jersey if the authority to practise by virtue of which the person was eligible to be registered is suspended. On enactment, the prescribed authority to practise will be that the practitioner is registered with the General Medical Council and holds a licence to practise. Equally, as soon as the suspension of the person's authority to practise ends, the Minister must end the practitioner's suspension in Jersey. There is no limit on this mandatory period of suspension, as it depends wholly upon suspension by the General Medical Council. The regulations of the Council itself set out rights of review of a suspension.

The Minister is also given limited powers of temporary suspension. These are to deal with a situation where it is believed that there may be grounds for cancellation of a practitioner's registration and it is thought that the practitioner should be suspended from practice whilst enquiries are conducted. The period of suspension in this case is limited to a maximum of 3 months, but may be extended.

In either case, the Minister must notify the practitioner of the suspension of his or her registration, the reasons for it and the period of suspension.

Article 10B(1)(e) confers a right of appeal against suspension of registration or the extension of a period of suspension.

Article 10A Application for amendment of direction

This Article entitles a practitioner whose registration has been cancelled, and in whose case the Minister has directed that the practitioner should not be re-registered for a specified period of time, to apply to the Minister to amend the direction.

Article 10B(1)(f) confers a right of appeal against a decision of the Minister to refuse to amend the direction, or a decision to amend it on terms other than those sought by the applicant.

Article 10B Appeals

This Article summarises the rights of appeal against decisions made by the Minister under the draft Law. An appeal must be made within 28 days after the appellant is served with notice of the Minister's decision. In a case where a practitioner applies for registration in Jersey or applies for amendment of a direction, and the Minister does not deal with the application within 60 days, the Minister's failure to act is deemed to be a refusal of the application, which then enables the applicant to proceed to appeal, if he or she wishes.

Article 10C Fitness to practise

This Article empowers the Minister to make Orders for the purpose of facilitating the revalidation of practitioners registered in Jersey, in accordance with the requirements of the General Medical Council. As noted above, a practitioner's licence to practise, issued by that Council, depends upon the

practitioner being proved to be fit to practise, through his or her participation in the ongoing arrangements for revalidation. In the United Kingdom revalidation is delivered through formalized schemes for evidence-based evaluation of fitness to practise, overseen by a responsible officer, who makes recommendations to the General Medical Council and who must be able to liaise with the Council. The UK model is for different practitioner groups to have their own responsible officer according to who the practitioner is employed by or contracts with for the provision of medical services. The equivalent model for Jersey is expected to be that practitioners will fall into 2 groups, each with its own responsible officer. Practitioners who are States employees will be one group. General practitioners who are approved practitioners under the Health Insurance (Jersey) Law 1967 will be the other group. In the event that a practitioner falls into neither of these groups, he or she must make his or her own arrangements for revalidation by the General Medical Council.

Article 6 amends Article 11 of the principal Law. That Article enables a practitioner who is provisionally registered in the United Kingdom to be employed in a resident medical practitioner post within a hospital administered by the Minister without being registered in Jersey. The amendment is not intended to make any substantive change, but to merely remove from the face of the Law the cross-references to provisional registration under sections of the Medical Act 1983 and provide instead for what constitutes provisional registration in another country to be prescribed by Order of the Minister. This is done so that changes in the United Kingdom legislation may be reflected more quickly and easily in future.

Article 7 inserts Article 12A in the principal Law.

Article 12A Orders

This Article confers the power for the Minister to prescribe the conditions for registration in Jersey. It also enables the Minister to make any transitional arrangements required on enactment of this Law.

Article 8 provides for the citation and commencement of the Law.



Jersey

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Arrangement

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Jersey

**DRAFT MEDICAL PRACTITIONERS
(REGISTRATION) (AMENDMENT No. 4) (JERSEY)
LAW 201-**

A LAW to amend further the Medical Practitioners (Registration) (Jersey) Law 1960.

Adopted by the States [date to be inserted]

Sanctioned by Order of Her Majesty in Council [date to be inserted]

Registered by the Royal Court [date to be inserted]

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law –

1 Interpretation

In this Law “principal Law” means the Medical Practitioners (Registration) (Jersey) Law 1960¹.

2 Article 1 amended

In Article 1 of the principal Law –

(a) for paragraph (1) there shall be substituted the following paragraph –

“(1) In this Law, unless the context otherwise requires –

‘Minister’ means the Minister for Health and Social Services;

‘prescribed’ means prescribed by Order of the Minister;

‘register’ means the register kept under Article 3(1);

‘registered’ means registered as a medical practitioner under this Law;

‘registration fee’ means the registration fee determined under Article 5(3).”;

- (b) paragraphs (3) and (4) shall be deleted.

3 Articles 2, 3, 4 and 5 substituted

For Articles 2, 3, 4 and 5 of the principal Law there shall be substituted the following Articles –

“2 Restrictions on practice of medicine

- (1) A person shall not –
- (a) represent himself or herself as being registered unless he or she is registered and his or her registration is not suspended;
 - (b) represent himself or herself as having any qualification or authority to practise as a medical practitioner that is a qualification or authority prescribed under Article 5A(1)(a) as a requirement for registration, unless he or she has such qualification or authority and, in the case of authority to practise, the authority is not suspended;
 - (c) use the title ‘registered medical practitioner’ unless he or she is registered and his or her registration is not suspended;
 - (d) represent himself or herself as having a specialist title or specialization unless –
 - (i) he or she is permitted, by a qualification or authority to practise as a medical practitioner conferred in another country or territory, being a qualification or authority prescribed under Article 5A(1)(a) as a requirement for registration, to hold himself or herself out, in that country or territory, as having that specialist title or specialization, and
 - (ii) the permission is not suspended in that country or territory;
 - (e) practise medicine unless he or she is registered and his or her registration is not suspended; or
 - (f) practise medicine otherwise than in accordance with the conditions (if any) imposed on his or her registration.
- (2) A person who contravenes paragraph (1) is guilty of an offence and liable to a fine of level 4 on the standard scale.

3 Register

- (1) The Minister shall keep a register of persons registered as medical practitioners.
- (2) Upon registering a person as a medical practitioner, the Minister shall enter in the register the prescribed information in respect of the person.
- (3) The Minister shall remove from the register the name of a person –
 - (a) who has died;

- (b) who has requested the cancellation of his or her registration under Article 8; or
- (c) whose registration has been cancelled under Article 9.

4 List of registered medical practitioners to be kept

The Minister shall ensure that a list of the names of registered medical practitioners, showing such information regarding their qualification for registration as may be prescribed, is published or made available for viewing at all reasonable times by members of the public, without charge, at a place or in a manner determined by the Minister.

5 Application for registration as a medical practitioner

- (1) A person may apply to the Minister for registration under this Law as a medical practitioner.
- (2) An application for registration as a medical practitioner shall –
 - (a) contain the prescribed particulars; and
 - (b) be accompanied by –
 - (i) the prescribed proof that the applicant fulfils the requirements prescribed under Article 5A(1)(a), and
 - (ii) the registration fee.
- (3) The Minister may determine a registration fee for the purposes of paragraph (2)(b)(ii).

5A Registration

- (1) The Minister shall, after receiving an application for registration that complies with the requirements of Article 5(2), register the applicant as a medical practitioner if the Minister is satisfied that –
 - (a) the applicant fulfils the prescribed requirements for registration; and
 - (b) the application is not made within a period specified in a direction under Article 9(3) that is in force in relation to the applicant.
- (2) The Minister shall, before refusing to register an applicant as a medical practitioner by reason of the application not complying with the requirements of Article 5(2), give the applicant an opportunity to make his or her application compliant with the requirements of that provision.
- (3) The Minister shall not register an applicant as a medical practitioner if the Minister is not satisfied as to the matters described in sub-paragraph (a) and (b) of paragraph (1).
- (4) The Minister shall, upon refusing an application for registration –
 - (a) serve notice on the applicant of his or her decision to refuse the application and the reasons for it; and

- (b) refund the registration fee paid by the applicant.

5B Conditions of registration

- (1) The Minister may, if he or she thinks it necessary to do so –
 - (a) to protect members of the public;
 - (b) because it is otherwise in the public interest; or
 - (c) in the interests of the person,impose a condition on the registration of a person as a medical practitioner.
- (2) A condition may be imposed under paragraph (1) at the time of, or after, registration.
- (3) A condition imposed under paragraph (1) shall remain in force for the period specified in the registration of the person as the period for which the condition shall remain in force.
- (4) A period specified under paragraph (3) shall not exceed 18 months.
- (5) The Minister may, on the expiry of the period specified under paragraph (3), make a further decision under paragraph (1) to impose the condition.
- (6) Before the Minister makes a decision to impose a condition under paragraph (1), the Minister shall give the person the opportunity to make representations.
- (7) The Minister shall impose any mandatory condition of registration that is prescribed.
- (8) The Minister shall serve notice on the practitioner of any condition imposed in the practitioner's case, the reasons for its imposition and, in the case of a condition imposed under paragraph (1), the period for which it shall remain in force.

5C Certificate of registration

- (1) The Minister shall issue a certificate of registration to a person who is registered as a medical practitioner.
- (2) The Minister may issue a further certificate of registration to a person who is registered as a medical practitioner if the Minister is satisfied that the certificate of registration formerly issued to the person has been lost, stolen or damaged.

5D Requirement to make return

A registered medical practitioner shall provide to the Minister, at such intervals and by such dates as may be prescribed, a return in such form and containing such information as may be prescribed.”.

4 Article 7 amended

In Article 7(1) of the principal Law for sub-paragraph (a) there shall be substituted the following sub-paragraph –

- “(a) with intent to deceive, forges or uses, or lends to or allows to be used by any other person, a certificate or other document that is required, under Article 5(2)(b), to accompany an application for registration, or makes or has in his or her possession any certificate or document so closely resembling the required certificate or document as to be calculated to deceive; or”.

5 Articles 8, 9 and 10 substituted

For Articles 8, 9 and 10 of the principal Law there shall be substituted the following Articles –

“8 Request for cancellation of registration

- (1) A person registered as a medical practitioner may, at any time, request the Minister to cancel the person’s registration.
- (2) A request under paragraph (1) shall be made in writing.
- (3) The Minister shall, upon receiving a request under paragraph (1), cancel the person’s registration.

9 Cancellation of registration otherwise than on request

- (1) The Minister shall cancel a person’s registration as a medical practitioner if –
 - (a) the person ceases to fulfil the requirements for registration prescribed under Article 5A(1)(a);
 - (b) the person’s registration under this Law was obtained by fraudulent means; or
 - (c) the person has not, within 60 days of having been requested to do so by the Minister, by notice in writing, provided to the Minister the return required by Article 5D.
- (2) The Minister may cancel a person’s registration as a medical practitioner if the person –
 - (a) is convicted (whether or not in Jersey) of an offence of a kind that, in the opinion of the Minister, makes the person unfit to be a medical practitioner;
 - (b) has failed to comply with a condition imposed under Article 5B(1) or (7) on his or her registration;
 - (c) is found by the Minister to have engaged in behaviour that constituted a contravention of, or a failure to comply with, any term or condition of any authority to practise as a medical practitioner by virtue of which authority the person

- fulfils the requirements for registration prescribed under Article 5A(1)(a); or
- (d) is found by the Minister to have engaged in conduct of a kind that, in the opinion of the Minister, makes the person unfit to be a medical practitioner.
- (3) The Minister may, if he or she has cancelled a person's registration under paragraph (1)(b) or (2), direct that the person shall not be registered under Article 5A within a period, not exceeding 5 years, specified by the Minister in the direction.
- (4) The Minister shall, before cancelling a person's registration under paragraph (1) or (2), give the person an opportunity to make representations.
- (5) The Minister shall serve on a person whose registration is cancelled under this Article notice of –
- (a) the Minister's decision to cancel the person's registration;
- (b) the Minister's reasons for the decision; and
- (c) the period, if any, during which, in accordance with a direction under paragraph (3), the person shall not be registered under Article 5A.
- (6) The cancellation of a person's registration under this Article takes effect on the service on the person under paragraph (5) of the notice of the cancellation.
- (7) If an appeal is lodged under Article 10B against the cancellation of a person's registration, the Minister shall restore the person's registration –
- (a) until the determination of the appeal under Article 10B(4)(a) or (c); or
- (b) where the appeal is determined by referring the matter back to the Minister under Article 10B(4)(b), until the Minister has dealt with the referred matter.
- (8) Paragraph (7) does not apply if –
- (a) in the opinion of the Minister, the grounds on which the registration was cancelled are so serious that the cancellation should continue in effect –
- (i) until the appeal in relation to it is determined under Article 10B(4)(a) or (c), or
- (ii) where the appeal is determined by referring the matter back to the Minister under Article 10B(4)(b), until the Minister has dealt with the referred matter; and
- (b) the notice of cancellation under paragraph (5) specifies that sub-paragraph (a) of this paragraph applies in relation to the cancellation.

10 Suspension

- (1) The Minister shall –

- (a) suspend a person's registration as a medical practitioner upon becoming aware that the authority to practise by virtue of which the person fulfils the requirements for registration prescribed under Article 5A(1)(a) has been suspended; and
 - (b) end a person's suspension upon becoming aware that the person's authority to practise, described in subparagraph (a), is no longer suspended.
- (2) If the Minister is satisfied that there may be grounds for cancellation of a person's registration as a medical practitioner and that the circumstances are such that, while enquiries are conducted into those grounds, the person should not practise as a medical practitioner, the Minister may suspend the person's registration for a period not exceeding 3 months.
- (3) The Minister may extend a suspension under paragraph (2) on one or more occasions for, on each occasion, a period not exceeding 3 months.
- (4) The Minister shall serve on a person whose registration is suspended, or whose suspension is extended, notice of –
 - (a) the Minister's decision to suspend, or extend the suspension of, the person's registration;
 - (b) the Minister's reasons for the decision; and
 - (c) the period for which the suspension has effect.
- (5) A period of suspension commences on the service on the person, under paragraph (4), of the notice of suspension.

10A Application for amendment of direction

- (1) A person whose registration is cancelled under Article 9 may apply to the Minister to amend a direction given under Article 9(3) in relation to the person.
- (2) The Minister may, after receiving an application under paragraph (1) from a person, amend a direction given under Article 9(3) in relation to the person.
- (3) The Minister shall serve on a person notice of the Minister's decision in relation to an application by the person under paragraph (1) and the Minister's reasons for the decision.

10B Appeals

- (1) A person may appeal to the Royal Court against a decision of the Minister to –
 - (a) refuse under Article 5A to register the person;
 - (b) impose under Article 5B(1) a condition on the registration of the person;
 - (c) cancel under Article 9 the person's registration;
 - (d) give a direction under Article 9(3) in relation to the person;

- (e) suspend, or continue the suspension of, the person's registration under Article 10; or
 - (f) refuse, under Article 10A, to amend a direction given in respect of the person or to amend the direction in terms other than those sought by the person.
- (2) An appeal under this Article against a decision may only be made by a person within 28 days after notice of the decision is served on the person, unless the Royal Court determines that the period should be extended.
- (3) If the Minister has not, within the 60 day period beginning on the day after an application is made to the Minister under Article 5A or 10A by a person, served a notice under Article 5A(4) or 10A(3), as the case requires, in relation to the application, the Minister shall be taken for the purposes of this Article –
- (a) to have decided to refuse the application; and
 - (b) to have served notice of the decision on the person on the day after the end of that period.
- (4) The Royal Court may determine an appeal under this Article by –
- (a) confirming the decision to which the appeal relates;
 - (b) quashing the decision to which the appeal relates and referring the matter back to the Minister for the Minister's decision in accordance with the law; or
 - (c) making any decision that the Minister could have made under Article 5A, 5B(1), 9, 10 or 10A, as the case may be.
- (5) The Royal Court may make the additional orders it thinks appropriate, including ancillary orders and orders as to costs.

10C Fitness to practise

- (1) The Minister may by Order, for the purpose of facilitating the continuance, in another country or territory, of any authority to practise by virtue of which medical practitioners are registered, make arrangements for the evaluation of the fitness to practise of all or any class of registered medical practitioners.
- (2) Before making an Order under this Article, the Minister shall consult with such bodies or organizations in Jersey as appear to the Minister to be representative of any class of registered medical practitioners to which the Order would apply.
- (3) An Order made under paragraph (1) may in particular, but not by way of limitation –
- (a) classify registered medical practitioners for the purposes of the arrangements described in paragraph (1);
 - (b) provide for the appointment of one or more persons to direct the arrangements described in paragraph (1) in relation to all or any class of registered medical practitioners and specify the name by which a person appointed shall be known;

- (c) specify the responsibilities of a person appointed in relation to the evaluation of the fitness to practise of a class of registered medical practitioners;
 - (d) require a person appointed to co-operate with any authority or organization outside Jersey that has responsibility for the issuing, suspension or withdrawal of any authority to practise by virtue of which a person is registered, or eligible to be registered, in Jersey;
 - (e) require a person appointed to have regard to guidance issued by a body specified in the Order; and
 - (f) confer on a person appointed such powers as are appropriate to enable that person to discharge the responsibilities imposed on him or her by the Order.
- (4) An Order made under paragraph (1) may –
- (a) create offences punishable by a fine of up to level 4 on the standard scale; and
 - (b) create other procedures or apply, with modifications, existing procedures in other enactments for enforcing any provision of the Order.
- (5) In particular, an Order made under paragraph (1) may, pursuant paragraph (4)(b), apply Article 30 of the Health Insurance (Jersey) Law 1967², with modifications, for the purposes of the Order.
- (6) An Order made under paragraph (1) may, subject to paragraphs (7) to (11) –
- (a) enable a person appointed to require another person to supply information or produce any document which appears relevant to the discharge of the responsibilities of the person appointed; and
 - (b) enable a person appointed to apply to the Royal Court for an order requiring the information to be supplied or the document produced.
- (7) An Order made under paragraph (1) shall not confer any power for a person appointed to require another person to supply information or produce any document, the supply or production of which is prohibited by any enactment.
- (8) However, if a prohibition in another enactment operates only because information that is capable of identifying an individual is contained in the document, or forms part of the information, referred to in paragraph (6), the Order may empower a person appointed to require that the information be put into such a form as to prevent identification of the individual.
- (9) An Order made under paragraph (1) may further provide that, for the purpose of determining whether a disclosure is not prohibited, by reason that it is a disclosure of personal data which is exempt from the non-disclosure provisions of the Data Protection (Jersey) Law 2005³, by virtue of Article 35(1) of that Law, there shall be an assumption that the disclosure is required by the Order.

- (10) An Order made under paragraph (1) shall not confer any power for a person appointed to require another person to supply information or produce a document that the person could not be compelled to supply or produce in civil proceedings before the Royal Court.
- (11) An Order made under paragraph (1) that confers power for a person appointed to require another person to supply information or produce a document –
 - (a) shall –
 - (i) specify the uses to which the information or documents so obtained may be put, and
 - (ii) restrict the persons to whom the information or documents so obtained may be released; and
 - (b) may, subject to sub-paragraph (a), require a person appointed to release the information or documents in such circumstances, for such purposes and to such persons, as are specified in the Order.
- (12) A reference in this Article to a person appointed is a reference to a person appointed for the purposes described in paragraph (3)(b).”.

6 Article 11 amended

In Article 11(1) of the principal Law for the words “if he or she is duly registered as a provisionally registered medical practitioner in pursuance of section 15 or 21 of the 1983 Act” there shall be substituted the words “if he or she satisfies such requirements and complies with such conditions as may be prescribed for the purposes of this Article”.

7 Article 12A inserted

After Article 12 of the principal Law there shall be inserted the following Article –

“12A Orders

The Minister may, by Order –

- (a) prescribe any matter that shall or may be prescribed under this Law;
- (b) make provision as to the documents that may be admitted in proceedings under this Law as proof that a person –
 - (i) fulfils the prescribed requirements for registration under Article 5A, or
 - (ii) is permitted to hold himself or herself out as having a specialist title or specialization;
- (c) make provision as to the manner in which any notice to be served under this Law shall or may be served; and

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- (d) make transitional provisions and savings for the purposes of the commencement of any amendment to this Law.”.

8 Citation and commencement

This Law may be cited as the Medical Practitioners (Registration) (Amendment No. 4) (Jersey) Law 201- and shall come into force on such day or days as the States may by Act appoint.

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- ¹ *chapter 20.600*
² *chapter 26.500*
³ *chapter 15.240*