



Jersey

## MEDICAL PRACTITIONERS (REGISTRATION) (RESPONSIBLE OFFICERS) (JERSEY) ORDER 2014

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Jersey

## **MEDICAL PRACTITIONERS (REGISTRATION) (RESPONSIBLE OFFICERS) (JERSEY) ORDER 2014**

*Made*

*Coming into force*

**THE MINISTER FOR HEALTH AND SOCIAL SERVICES**, in pursuance of Articles 10C and 12A of the Medical Practitioners (Registration) (Jersey) Law 1960, and after consultation in accordance with Article 10C(2) of that Law, orders as follows –

### **1 Interpretation**

In this Order –

“1983 Act” means the Medical Act 1983 of the United Kingdom as amended;

“General Council” means the General Medical Council continued, as a body corporate, by section 1 of the 1983 Act;

“Law” means the Medical Practitioners (Registration) (Jersey) Law 1960;

“performer” means a registered medical practitioner whose name is included in the Performers List;

“Performers List” means the list of that name maintained under the Performers List Regulations;

“Performers List Regulations” means the Health Insurance (Performers List for General Medical Practitioners) (Jersey) Regulations 2014;

“prescribed connection” has the meaning given in Article 2;

“States Employment Board” has the same meaning as in the Employment of States of Jersey Employees (Jersey) Law 2005.

### **2 Prescribed connection**

For the purposes of this Order, a registered medical practitioner has a prescribed 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 those Regulations.

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**3 Classification of registered medical practitioners**

- (1) There shall be 5 classes of registered medical practitioners –
  - (a) Responsible Officers;
  - (b) States Employees;
  - (c) Performers;
  - (d) Independent Practitioners; and
  - (e) UK Connected Practitioners.
- (2) A registered medical practitioner is in the Responsible Officers class if he or she –
  - (a) is appointed as a responsible officer for the States Employees class, the Performers class, the Independent Practitioners class or the UK Connected Practitioners class; and
  - (b) does not have a prescribed connection.
- (3) A registered medical practitioner is in the States Employees class if –
  - (a) he or she is –
    - (i) a person who, in the course of his or her employment by the States Employment Board, practises medicine, or
    - (ii) a person who practises medicine under a contract of service between the person and the Health and Social Services department; and
  - (b) he or she –
    - (i) is not in the Responsible Officers class, and
    - (ii) does not have a prescribed connection.
- (4) A registered medical practitioner is in the Performers class if he or she is a performer.
- (5) A registered medical practitioner is in the Independent Practitioners class if –
  - (a) he or she is not in the Responsible Officers class, the States Employees class or the Performers class; and
  - (b) he or she does not have a prescribed connection.
- (6) A registered medical practitioner is in the UK Connected Practitioners class if he or she is not a performer and has a prescribed UK connection.
- (7) If, apart from this paragraph, a registered medical practitioner would be in both the States Employees class and the Performers class, the practitioner is in –
  - (a) the States Employees class, if –
    - (i) most of his or her clinical practice is as a States employee, or
    - (ii) there is no significant difference in the amount of clinical practice that the practitioner undertakes as, respectively, a State employee and a performer; or
  - (b) the Performers class, if most of his or her clinical practice is as a performer.

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**4 Appointment of responsible officers**

- (1) The arrangements described in Article 10C(1) of the Law shall be directed, in relation to a class, by the responsible officer for that class.
- (2) The Minister shall appoint a responsible officer for each class.
- (3) If there is a conflict of interest or an appearance of bias between a responsible officer and a registered medical practitioner who is in the class for which the officer is responsible (the “relevant practitioner”), the Minister must appoint a second responsible officer for the class.
- (4) In considering who to appoint under paragraph (3), the Minister must ensure that there is no conflict of interest or appearance of bias between the person to be appointed and the relevant practitioner.
- (5) Where a second responsible officer has been appointed under paragraph (3), that responsible officer, and not the first responsible officer, has the responsibilities of the responsible officer in relation to the relevant practitioner.
- (6) A person may only be appointed as a responsible officer if –
  - (a) he or she is a registered medical practitioner; and
  - (b) at the time of appointment, has been, throughout the preceding 5 years, fully registered as a medical practitioner under the 1983 Act.
- (7) A person may be appointed as a responsible officer for more than one class.
- (8) A person must continue to be a registered medical practitioner in order to remain as a responsible officer.

**5 Responsibilities of responsible officer in relation to Responsible Officers**

Schedule 1 has effect regarding the responsibilities of the responsible officer for registered medical practitioners in the Responsible Officers class.

**6 Responsibilities of responsible officer in relation to States Employees**

Schedule 2 has effect regarding the responsibilities of the responsible officer for registered medical practitioners in the States Employees class.

**7 Responsibilities of responsible officer in relation to Performers**

Schedule 3 has effect regarding the responsibilities of the responsible officer for registered medical practitioners in the Performers class.

**8 Responsibilities of responsible officer in relation to Independent Practitioners**

Schedule 4 has effect regarding the responsibilities of the responsible officer for registered medical practitioners in the Independent Practitioners class.

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**9 Responsibilities of responsible officer in relation to UK Connected Practitioners**

Schedule 5 has effect regarding the responsibilities of the responsible officer for registered medical practitioners in the UK Connected Practitioners class.

**10 Investigations and information sharing**

Schedule 6 has effect to confer powers of investigation and permit the sharing of information.

**11 Citation and commencement**

This Order may be cited as the Medical Practitioners (Registration) (Responsible Officers) (Jersey) Order 2014 and shall come into force on 1st October 2014.

*Signed*.....

*Date*.....

*Minister for Health and Social Services*

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**SCHEDULE 1**

(Article 5)

**RESPONSIBILITIES OF RESPONSIBLE OFFICER FOR RESPONSIBLE OFFICERS CLASS**

**1 Interpretation of Schedule 1**

In this Schedule –

“practitioner” means a registered medical practitioner in the Responsible Officers class;

“responsible officer” means the responsible officer for the Responsible Officers class.

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

- (1) The responsible officer has the responsibilities specified in this paragraph relating to the evaluation of the fitness to practise of every practitioner.
- (2) The responsibilities referred to in sub-paragraph (1) are –
  - (a) to take all reasonably practicable steps to ensure that the practitioner undergoes regular appraisals in accordance with sub-paragraph (3);
  - (b) to take all reasonably practicable steps to investigate concerns about the practitioner’s fitness to practise raised by any person or arising from any other source;
  - (c) where appropriate, to refer concerns about the practitioner to –
    - (i) the General Council,
    - (ii) the Minister, for the purposes of the discharge of his or her functions under the Law;
  - (d) where the practitioner is subject to conditions imposed by, or undertakings agreed with, the General Council, to monitor compliance with those conditions or undertakings;
  - (e) to make recommendations to the General Council about the practitioner’s fitness to practise; and
  - (f) to maintain records of the practitioner’s fitness to practise evaluations, including appraisals and any other investigations or assessments.
- (3) The responsible officer must take reasonably practicable steps to ensure that appraisals referred to in sub-paragraph (2)(a) –
  - (a) are carried out by or on behalf of the States Employment Board; and
  - (b) 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 during the appraisal period.

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- (4) Procedures under sub-paragraph (2)(b) must include provision for the practitioner's comments to be sought and taken into account where appropriate.
  - (5) The responsible officer must co-operate with the General Council and any of its committees, or any persons authorized by the General Council, in connection with the exercise by them of any of their functions under Part 3A or 5 of the 1983 Act.

### **3 Additional responsibilities**

- (1) The responsible officer has the following responsibilities to the extent that a practitioner is practising in Jersey.
- (2) The responsible officer must ensure that the practitioner has established systems and procedures which will enable the practitioner to carry out his or her responsibilities –
  - (a) in the case of the responsible officer for the States Employees class, under paragraph 3(2) of Schedule 2;
  - (b) in the case of the responsible officer for the Performers class, under paragraph 3(2) of Schedule 3 and the Performers List Regulations, in respect of the admission of persons to the performers list;
  - (c) in the case of the responsible officer for the Independent Practitioners class, under paragraph 2(2) of Schedule 4; and
  - (d) in the case of the responsible officer for the UK Connected Practitioners class, under paragraph 2(2) of Schedule 5.
- (3) In relation to monitoring the conduct and performance of practitioners, the responsible officer must –
  - (a) review regularly the general performance information held by the States Employment Board and any administration of the States regarding practitioners;
  - (b) identify any issues arising from that information relating to practitioners, such as variations in individual performance; and
  - (c) take all reasonably practicable steps to ensure that any such issues are addressed.
- (4) In relation to ensuring that appropriate action is taken in response to concerns about the conduct or performance of practitioners, the responsible officer must take all reasonably practicable steps –
  - (a) to ensure that investigations are initiated by or on behalf of the States Employment Board and conducted with appropriately qualified investigators;
  - (b) to ensure that procedures are in place to address concerns raised about the practitioner by any person or arising from any other source;
  - (c) to ensure that any investigation into the conduct or performance of a practitioner takes into account any other relevant matters within the administration of the States within which the practitioner practises;



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- (d) to consider the need for further monitoring of the practitioner's conduct and performance and take steps to ensure that this takes place where appropriate;
  - (e) to ensure that a practitioner who is subject to procedures under this sub-paragraph is kept informed about the progress of the investigation;
  - (f) to ensure that procedures under this sub-paragraph include provision for the practitioner's comments to be sought and taken into account where appropriate;
  - (g) where appropriate –
    - (i) to take any steps necessary to protect patients,
    - (ii) to recommend to the States Employment Board that the practitioner should be suspended or have conditions or restrictions placed on his or her practice;
  - (h) 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) recommending to the States Employment Board, and facilitating the provision of, opportunities to increase the practitioner's work experience; and
  - (i) to maintain accurate records of all steps taken in accordance with this sub-paragraph.

#### **4 Duty to have regard to guidance**

- (1) In discharging his or her responsibilities 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 section 45C(2) of the 1983 Act; and
  - (b) guidance given by the General 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 as such.
- (2) In discharging his or her responsibilities under paragraph 3, the responsible officer must have regard to –
  - (a) guidance given by the Secretary of State of the United Kingdom in accordance with section 120(6) of the Health and Social Care Act 2008 of the United Kingdom; and
  - (b) guidance given by the National Clinical Assessment Service division of the National Health Service Litigation Authority, to the extent that it relates to the nomination or appointment of responsible officers or their responsibilities as such.

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**SCHEDULE 2**

(Article 6)

**RESPONSIBILITIES OF RESPONSIBLE OFFICER FOR STATES  
EMPLOYEES****1 Interpretation of Schedule 2**

In this Schedule –

“contract of service” means a contract described in Article 3(3)(a)(ii);

“practitioner” means a registered medical practitioner in the States Employees class;

“responsible officer” means the responsible officer for the States Employees class.

**2 Duties of responsible officer -appraisals and fitness to practise**

- (1) The responsible officer has the responsibilities specified in this paragraph relating to the evaluation of the fitness to practise of every practitioner.
- (2) The responsible officer must –
  - (a) ensure that regular appraisals of the practitioner are carried out by or on behalf of the States Employment Board, in accordance with sub-paragraph (3);
  - (b) establish and implement procedures to investigate concerns about a practitioner’s fitness to practise raised by any person or arising from any other source;
  - (c) where appropriate, to refer concerns about the practitioner to –
    - (i) the General Council, and
    - (ii) the Minister, for the purposes of the discharge of his or her functions under the Law;
  - (d) where the practitioner is subject to conditions imposed by, or undertakings agreed with, the General Medical Council, to monitor compliance with those conditions or undertakings;
  - (e) to make recommendations to the General Council about the practitioner’s fitness to practise; and
  - (f) to maintain records of the practitioner’s fitness to practise evaluations, including appraisals and any other investigations or assessments.
- (3) The responsible officer must ensure that appraisals referred to in sub-paragraph (2)(a) 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 for the States Employment Board, and for any other organization or body, during the appraisal period.
- (4) The procedures required by sub-paragraph (2)(b) must include provision for the practitioner’s comments to be sought and taken into account where appropriate.

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- (5) The responsible officer must co-operate with the General Medical Council and any of its committees, or any persons authorized by the General Medical Council, in connection with the exercise by them of any of their functions under Part 3A or 5 of the 1983 Act.

**3 Additional responsibility of responsible officer in respect of recruitment, conduct and performance**

- (1) The responsible officer has the following responsibilities to the extent that a practitioner is practising in Jersey.
- (2) In relation to the entry by the States Employment Board into contracts of employment with practitioners for the provision of medical services, and in relation to the entry by the Health and Social Services Department into contracts for the provision of medical services by practitioners, the responsible officer must –
- (a) ensure that the medical practitioners to be employed or contracted with have qualifications and experience appropriate to the work to be performed;
  - (b) ensure that the medical practitioners to be employed or contracted with have sufficient knowledge of the English language necessary for the work to be performed in a safe and competent manner;
  - (c) ensure that appropriate references are obtained and checked;
  - (d) take any steps necessary to verify the identity of the medical practitioners; and
  - (e) maintain accurate records of all steps taken in accordance with clauses (a) to (d).
- (3) In relation to monitoring the conduct and performance of practitioners, the responsible officer must –
- (a) review regularly the general performance information, including clinical indicators relating to outcomes for patients, that is held by any administration of the States in which the practitioner, as a States employee or under a contract of service, practises medicine;
  - (b) identify any issues arising from that information relating to practitioners, such as variations in individual performance; and
  - (c) ensure, so far as he or she is able, that steps are taken by or on behalf of the States Employment Board to address any such issues.
- (4) In relation to ensuring that appropriate action is taken in response to concerns about the conduct or performance of a practitioner, the responsible officer must –
- (a) initiate investigations with appropriately qualified investigators;
  - (b) ensure that procedures are in place to address concerns raised by patients or staff of any administration of the States in which the practitioner is, as a States employee or under a contract of service, practising medicine or arising from any other source;
  - (c) ensure that any investigation into the conduct or performance of a practitioner takes into account any other relevant matters within

- 
- any administration of the States in which the practitioner is practising as a States employee or under a contract of service;
- (d) consider the need for further monitoring of the practitioner's conduct and performance and ensure that this takes place where appropriate;
  - (e) ensure that a practitioner who is subject to procedures under this sub-paragraph is kept informed about the progress of the investigation;
  - (f) ensure that procedures under this sub-paragraph include provision for the practitioner's comments to be sought and taken into account where appropriate;
  - (g) where appropriate –
    - (i) take any steps necessary to protect patients,
    - (ii) where the practitioner is an employee, recommend to the States Employment Board that the practitioner should be suspended or have conditions or restrictions placed upon his or her practice, and
    - (iii) where the practitioner is working under a contract for services, recommend to Health and Social Services Department that the contract should be terminated or revised so as to place conditions or restrictions on the practitioner's clinical practice under the contract;
  - (h) 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 of the States in which the practitioner works, which may have contributed to the concerns identified; and
  - (i) maintain accurate records of all steps taken in accordance with this sub-paragraph.

#### **4 Duty to have regard to guidance**

- (1) In discharging his or her responsibilities 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 section 45C(2) of the 1983 Act; and
  - (b) guidance given by the General 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 as such.
- (2) In discharging his or her responsibilities under paragraph 3, the responsible officer must have regard to –

- (a) guidance given by the Secretary of State of the United Kingdom in accordance with section 120(6) of the Health and Social Care Act 2008 of the United Kingdom;
- (b) guidance given by the National Clinical Assessment Service division of the National Health Service Litigation Authority, to the extent that it relates to the nomination or appointment of responsible officers or their responsibilities as such; and
- (c) guidance given by the National Health Service Commissioning Board to the extent that it relates to the responsible officer's duties under paragraph 3(2)(b).

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**SCHEDULE 3**

(Article 7)

**RESPONSIBILITIES OF RESPONSIBLE OFFICER FOR PERFORMERS****1 Interpretation of Schedule 3**

In this Schedule “responsible officer” means the responsible officer for the Performers class.

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

- (1) The responsible officer has the responsibilities specified in this paragraph relating to the evaluation of the fitness to practise of every performer.
- (2) The responsibilities referred to in sub-paragraph (1) are –
  - (a) to ensure that the requirements of paragraph 3 of Schedule 2 to the Performers List Regulations in respect of appraisals are complied with;
  - (b) to discharge his or her functions under Part 3 of the Performers List Regulations in respect of the investigation of concerns regarding a performer’s fitness to practise;
  - (c) where appropriate, to refer concerns about the performer to –
    - (i) the General Council,
    - (ii) the Minister, for the purposes of the discharge of his or her functions under the Law;
  - (d) where a performer is subject to conditions imposed by, or undertakings agreed with, the General Council, to monitor compliance with those conditions or undertakings;
  - (e) to make recommendations to the General Council about performers’ fitness to practise; and
  - (f) to maintain records of performers’ fitness to practise evaluations, including appraisals and any other investigations or assessments.
- (3) The responsible officer must co-operate with the General Council and any of its committees, or any persons authorized by the General Council, in connection with the exercise by them of any of their functions under Part 3A or 5 of the 1983Act.

**3 Additional responsibility of responsible officer in respect of admission to the Performers List, conduct and performance**

- (1) The responsible officer has the following responsibilities to the extent that a practitioner is practising in Jersey.
- (2) The responsible officer must, in accordance with the Performers List Regulations –

- 
- (a) ensure that the practitioners to be included in the Performers List have qualifications and experience appropriate to the provision of medical services, as defined in the Health Insurance (Jersey) Law 1967;
  - (b) ensure that practitioners to be included in the Performers List have sufficient knowledge of the English language to perform those medical services in a safe and competent manner;
  - (c) ensure that appropriate references are obtained from applicants for inclusion in the Performers List, and checked;
  - (d) take any steps necessary to verify the identity of applicants for inclusion in the Performers List; and
  - (e) maintain accurate records of all steps taken in accordance with clauses (a) to (d).
- (3) In relation to monitoring the conduct and performance of performers, the responsible officer must –
- (a) review regularly the general performance information, including clinical indicators relating to outcomes for patients, that is held by an administration of the States or submitted by a performer in accordance with the Performers List Regulations;
  - (b) identify any issues arising from that information relating to practitioners, such as variations in individual performance; and
  - (c) ensure that steps are taken, under the Performers List Regulations or otherwise, to address any such issues.
- (4) In relation to ensuring that appropriate action is taken in response to concerns about the conduct or performance of a performer, the responsible officer must, in accordance with the powers and procedures in the Performers List Regulations –
- (a) initiate investigations with appropriately qualified investigators;
  - (b) ensure that concerns raised by any person, or arising from any other source, regarding a performer are addressed;
  - (c) ensure that any investigation into the conduct or performance of a practitioner takes into account any other relevant matters within the body or entity in which the performer is providing medical services;
  - (d) consider the need for further monitoring of a performer's conduct and performance and ensure that this takes place where appropriate;
  - (e) where appropriate take any steps necessary to protect patients; and
  - (f) 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

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- (iv) addressing any systemic issues within the practice within which the performer is practising which may have contributed to the concerns identified; and
  - (g) maintain accurate records of all steps taken in accordance with this sub-paragraph.

#### **4 Duty to have regard to guidance**

- (1) In discharging his or her responsibilities 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 section 45C(2) of the 1983 Act; and
  - (b) guidance given by the General 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 as such.
- (2) In discharging his or her responsibilities under paragraph 3, the responsible officer must have regard to –
  - (a) guidance given by the Secretary of State of the United Kingdom in accordance with section 120(6) of the Health and Social Care Act 2008 of the United Kingdom;
  - (b) guidance given by the National Clinical Assessment Service division of the National Health Service Litigation Authority, to the extent that it relates to the nomination or appointment of responsible officers or their responsibilities as such; and
  - (c) guidance given by the National Health Service Commissioning Board, to the extent that it relates to the responsible officer's duties under paragraph 3(2)(b).



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**SCHEDULE 4**

(Article 8)

**RESPONSIBILITIES OF RESPONSIBLE OFFICER FOR INDEPENDENT  
PRACTITIONERS**

**1 Interpretation of Schedule 4**

In this Schedule –

“practitioner” means a registered medical practitioner in the Independent Practitioners class;

“responsible officer” means the responsible officer for the Independent Practitioners class.

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

- (1) The responsible officer has the responsibilities specified in this paragraph relating to the evaluation of the fitness to practise of every practitioner.
- (2) The responsibilities referred to in sub-paragraph (1) are –
  - (a) to assess –
    - (i) whether the practitioner undergoes regular appraisals, and
    - (ii) whether those appraisals satisfy the requirements of sub-paragraph (3),and to receive such appraisals submitted by the practitioner;
  - (b) to take all reasonably practicable steps to investigate concerns about the practitioner’s fitness to practise raised by any person or arising from any other source;
  - (c) where appropriate, to refer concerns about the practitioner to –
    - (i) the General Council,
    - (ii) the Minister, for the purposes of the discharge of his or her functions under the Law;
  - (d) where the practitioner is subject to conditions imposed by, or undertakings agreed with, the General Council, to monitor compliance with those conditions or undertakings;
  - (e) to make recommendations to the General Council about the practitioner’s fitness to practise; and
  - (f) to maintain records of the practitioner’s fitness to practise evaluations, including appraisals and any other investigations or assessments.
- (3) The appraisals undertaken by a practitioner must –
  - (a) be carried out by an appropriate person; and

- (b) 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 during the appraisal period.
- (4) The steps taken under sub-paragraph (2)(b) must include provision for the practitioner's comments to be sought and taken into account where appropriate.
- (5) The responsible officer must co-operate with the General Council and any of its committees, or any persons authorized by the General Council, in connection with the exercise by them of any of their functions under Part 3A or 5 of the 1983 Act.

### **3 Duty to have regard to guidance**

In discharging his or her responsibilities 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 section 45C(2) of the 1983 Act; and
- (b) guidance given by the General 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 as such.

## **SCHEDULE 5**

(Article 9)

### **RESPONSIBILITIES OF RESPONSIBLE OFFICER FOR UK CONNECTED PRACTITIONERS**

#### **1 Interpretation of Schedule 5**

In this Schedule –

“practitioner” means a registered medical practitioner in the UK Connected Practitioners class;

“responsible officer” means the responsible officer for the UK Connected Practitioners class.

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

- (1) The responsible officer has the responsibilities specified in this paragraph relating to the evaluation of the fitness to practise of every practitioner.
- (2) The responsibilities referred to in sub-paragraph (1) are –
  - (a) to take all reasonably practicable steps to investigate concerns about the practitioner’s fitness to practise raised by any person;
  - (b) where appropriate, to refer concerns about the practitioner to the practitioner’s responsible officer in the United Kingdom;
  - (c) where appropriate, to refer concerns about the practitioner to the General Council; and
  - (d) where appropriate, to refer concerns about the practitioner to the Minister, for the purposes of the discharge of the Minister’s functions under the Law.
- (3) Procedures under sub-paragraph (2)(a) must include provision for the practitioner’s comments to be sought and taken into account where appropriate.

#### **3 Duty to have regard to guidance**

In discharging his or her responsibilities 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 section 45C(2) of the 1983 Act; and
- (b) guidance given by the General 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 as such.

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**SCHEDULE 6**

(Article 10)

**INSPECTIONS AND INFORMATION SHARING****1 Interpretation of Schedule 5**

In this Schedule, “inspector” means a person authorized in writing by the Minister as described in Article 30(5)(a)(i) of the Health Insurance (Jersey) Law 1967.

**2 Powers of inspection**

- (1) The powers conferred by this paragraph may be exercised by –
  - (a) a responsible officer; or
  - (b) an inspector, acting at the direction of a responsible officer.
- (2) The powers conferred by this paragraph may only be exercised where a responsible officer becomes aware of a concern that appears to raise an issue regarding the fitness to practise of a practitioner for whom the responsible officer is responsible.
- (3) The powers conferred by this paragraph may only be exercised for the purpose of ascertaining whether the concern in fact raises an issue regarding the practitioner’s fitness to practise.
- (4) A person exercising the powers of inspection conferred by this paragraph must, if so required, produce evidence of his or her authority.
- (5) The powers are –
  - (a) to enter, at all reasonable times, any premises or place liable to inspection under this paragraph;
  - (b) to examine, either alone or in the presence of any other person, as the person exercising the powers of inspection thinks fit, every person whom the person exercising the powers of inspection finds in any such premises or place, and to require every such person to be examined; and
  - (c) to require the production of, inspect, examine, copy and photograph, any record or document by the practitioner, a business partner of the practitioner or an employee of the practitioner.
- (6) The power in sub-paragraph (5)(c) includes the power to require the production of and to inspect, examine, copy and photograph, any record or document that includes sensitive personal data, where the conditions under the Data Protection (Jersey) Law 2005, and any Regulations made under it, for processing of such data are satisfied.
- (7) A person who –
  - (a) wilfully delays or obstructs the exercise of the powers conferred by this paragraph;

- (b) refuses or neglects to answer any question asked in exercise of the powers conferred by this paragraph; or
- (c) refuses or neglects to produce any record or document in his or her possession or control when required in exercise of the powers conferred by this paragraph,

is guilty of an offence and liable to a fine of level 4 on the standard scale.

- (8) A person shall not be guilty of an offence under sub-paragraph (7) by reason that the person refuses to answer any question or produce any document that the person could not be compelled to supply or produce in civil proceedings before the Royal Court.
- (9) The premises and places that are liable to inspection under this paragraph are any premises or place at which the person exercising the powers conferred by this paragraph has reasonable grounds for believing that that the practitioner to whom the concern relates is practising or has practised medicine or keeps records or documents relating to his or her practice of medicine.
- (10) The premises and places that are liable to inspection under this paragraph only include a private dwelling-house if and to the extent that the dwelling-house, or part of it, is used for the practise of medicine or the keeping or records or documents relating to the practise of medicine.

### **3 Information sharing**

- (1) Where the powers of inspection conferred by paragraph 2 are exercised by an inspector, at the direction of a responsible officer, the inspector must, and may only, pass the information, copies and photographs obtained to a responsible officer.
- (2) A responsible officer may only pass information, copies and photographs related to a concern that raises or may raise an issue regarding a practitioner's fitness to practise to –
  - (a) the General Council, for the purposes of the discharge of its functions under the 1983 Act;
  - (b) where the practitioner to whom the concern relates has a prescribed UK connection, to the practitioner's responsible officer in the United Kingdom, for the purposes of the discharge of that officer's functions under the 1983 Act;
  - (c) the Minister, for the purposes connected with his or her functions under the Law; and
  - (d) the Minister for Social Security, for purposes connected with the his or her approval of practitioners under the Health Insurance (Jersey) Law 1967.
- (3) Sub-paragraph (2) applies whether the information, copies and photographs have been obtained by the responsible officer by the exercise of the powers conferred by paragraph 2 or provided to the responsible officer voluntarily by the practitioner or any other person.

- (4) The responsible officer must inform a practitioner when information, copies and photographs concerning the practitioner are passed to another body or person.
- (5) A person who receives information from a responsible officer pursuant to sub-paragraph (2) may only use it for the purposes specified in the person's case in that sub-paragraph.

#### **4 Keeping of information**

- (1) A responsible officer shall keep secure information, copies and photographs obtained or received under or for the purposes of this Order.
- (2) When a responsible officer no longer needs to keep information, copies or photographs obtained or received under or for the purposes of this Order, the responsible officer shall either cause the information, copies and photographs to be destroyed in a secure manner or return it to the person who provided it.

