

2003 No. 1342

**HEALTH CARE AND ASSOCIATED PROFESSIONS
DOCTORS**

**The General Medical Council (Restoration and
Registration Fees Amendment) Regulations Order of
Council 2003**

Made - - - - - *5th June 2003*

Coming into force - - - *1st July 2003*

At the Council Chamber, Whitehall, the 5th day of June 2003

By the Lords of Her Majesty's Most Honourable Privy Council

Whereas, in exercise of their powers under sections 31 and 32 of the Medical Act 1983(a) and of all other powers enabling them in that behalf, the General Medical Council have made the General Medical Council (Restoration and Registration Fees Amendment) Regulations 2003 as set out in the Schedule to this Order:

And whereas by sections 31(10) and 32(8) of that Act such Regulations shall not have effect until approved by Order of the Privy Council:

Now, therefore, Their Lordships, having taken those Regulations into consideration, are pleased to, and do hereby, approve them.

Citation and commencement

1. This Order may be cited as the General Medical Council (Restoration and Registration Fees Amendment) Regulations Order of Council 2003 and shall come into force on 1st July 2003.

Revocation

2.—(1) The General Medical Council (Registration Regulations) Order of Council 1979(b) is hereby revoked.

(a) 1983 c. 54; section 31 was amended by S.I. 2002/3135, and section 32 by the Medical (Professional Performance Act) 1995 (c. 51) and S.I. 1996/1591.

(b) S.I. 1979/844.

(2) The General Medical Council (Voluntary Erasure and Restoration) Regulations Order of Council 2000**(a)** is hereby revoked in so far as it relates to the following provisions of the General Medical Council (Voluntary Erasure and Restoration) Regulations 2000**(b)**—

(a) regulations 3(7) and 5; and

(b) regulation 3(8) in so far as it is made under section 32(1)(c) of the Medical Act 1983.

A. K. Galloway
Clerk of the Privy Council

(a) S.I. 2000/2033.

(b) The General Medical Council (Voluntary Erasure and Restoration) Regulations 2000 (“the 2000 Regulations”), scheduled to the General Medical Council (Voluntary Erasure and Restoration) Regulations Order of Council 2000 (“the 2000 Order”), were made by the General Medical Council in exercise of their powers under sections 31A and 32 of the Medical Act 1983 (“the Act”), but the only provisions of the 2000 Regulations to be made under section 32 of the Act were regulations 3(7) and 5 and regulation 3(8) in part. The 2000 Order is to be fully revoked by virtue of this Order and the General Medical Council (Voluntary Erasure and Restoration following Voluntary Erasure) Regulations Order of Council 2003 (S.I. 2003/1341), which is made under section 31A of the Act and which comes into force at the same time as this Order. The full revocation cannot be included in a single instrument as different procedures are required for Orders approving regulations under sections 31A and 32 of the Act: *see* section 51(2) and (3) of the Act.

SCHEDULE

THE GENERAL MEDICAL COUNCIL (RESTORATION AND REGISTRATION FEES AMENDMENT) REGULATIONS 2003

The General Medical Council, in exercise of their powers under sections 31 and 32 of the Medical Act 1983(a), and of all other powers enabling them in that behalf, hereby make the following Regulations:—

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the General Medical Council (Restoration and Registration Fees Amendment) Regulations 2003 and shall come into force on 1st July 2003.

(2) In these Regulations—

“the 1979 Regulations” means the Medical Practitioners Registration (No 2) Regulations 1979(b);

“the Act” means the Medical Act 1983;

“the Conduct Rules” means the General Medical Council Preliminary Proceedings Committee and Professional Conduct Committee (Procedure) Rules 1988(c);

“doctor” means a registered medical practitioner;

“the Fees Regulations” means the Medical Practitioners (Fees) Regulations 1985(d);

“health screener” means a person appointed under rule 5(2) or (3) of the General Medical Council Health Committee (Procedure) Rules 1987(e) to undertake the initial consideration of cases under Part II of those Rules;

“lay person” means a person who is neither fully registered under the Act nor a holder of any qualification registrable under the Act;

“professional conduct screeners” means one doctor and one lay person appointed by the General Medical Council under rule 4 of the Conduct Rules to undertake the initial consideration of cases under Part II of those Rules;

“professional performance screeners” means one doctor and one lay screener appointed as screeners under rule 3 of the General Medical Council (Professional Performance) Rules 1997(f); and

“the register” means the register of medical practitioners maintained in accordance with section 2(1) of the Act.

Restoration of a person's name to the register

2.—(1) A person whose name has been erased under section 30(5) of the Act or any regulations made in pursuance of section 32(2) of the Act may apply to the Registrar in accordance with this regulation for his name to be restored to the register.

(2) An application under this regulation shall be made in writing and shall include the following—

- (a) the applicant's name and his previous registration number;
- (b) his medical qualifications which he would be entitled to have registered under section 16 or 26 of the Act;
- (c) the address which he wishes to be entered on the register as his address;
- (d) a statement complying with paragraph (3) made and signed by the applicant;
- (e) the name and address of his current or last employer and the date of the commencement of his employment with his current employer, or if he is not currently employed, the date his last employment was terminated;
- (f) if the Registrar so requests, a statement complying with paragraph (3) made by the employer named in accordance with sub-paragraph (e) and signed by that employer or by a director or officer of that employer;
- (g) a statement complying with paragraph (3) made by an officer of any regulatory body other than the General Medical Council which is responsible for the regulation or supervision of a health or social care profession and with which the applicant has been registered—
 - (i) in the previous five years, or

(a) 1983 c. 54; section 31 was amended by S.I. 2002/3135, and section 32 by the Medical (Professional Performance Act) 1995 (c. 51) and S.I. 1996/1591.

(b) Scheduled to S.I. 1979/844.

(c) Appended to S.I. 1988/2255; amended by S.I. 1989/656, 1990/1587, 1994/3298, 1996/1218, 1997/1529, 2000/2034 and 2051, 2002/2572, 2003/1340 and 1343.

(d) Appended to S.I. 1986/149; amended by S.I. 1995/2786, 1997/1884, 2000/2033 and 2000/2141, 2001/3668 and 2003/1074.

(e) Appended to S.I. 1987/2174; amended by S.I. 1996/1219, 1997/1529, 2000/2034 and 2051, 2002/2572, 2003/1340 and 1343.

(f) Appended to S.I. 1997/1529; amended by S.I. 2000/2034 and 2051, 2001/3730, 2002/2572, 2003/1340 and 1343.

(ii) if the Registrar so requests, during any period specified by the Registrar, and an application may be delivered by hand or sent to the Registrar by post.

(3) The statements referred to in sub-paragraphs (d), (f) and (g) of paragraph (2) comply with this paragraph if they either—

- (a) state that the person making it is not aware of any proceedings or of any act or omission on the part of the applicant which (if he were a registered medical practitioner) might render him liable to be referred to the General Medical Council (including any Committee of the Council) in relation to his conduct, health or performance; or
- (b) give particulars of any such proceedings or act or omission which might render the person liable to be so referred.

(4) For the purposes of this regulation, a person for whom another person works otherwise than in a medical capacity is not to be regarded as that other person's employer but, subject to that, a person's current employer is his principal current employer, if any, or any body or organisation to which he is contracted to provide medical services, and if he is not currently employed or contracted, his last employer is his principal last employer or the body or organisation to which he was most recently contracted to provide medical services.

(5) Where a statement—

- (a) by the person named in accordance with paragraph (2)(e), if requested in accordance with paragraph (2)(f), or
- (b) required in accordance with paragraph (2)(g) from an officer of a regulatory body,

complying with paragraph (3) is not attached to the application the Registrar shall use his best endeavours to obtain the statement, but if the employer or regulatory body cannot be contacted or does not respond before the expiry of one month beginning with the date the application is received by the General Medical Council, the application may still be proceeded with under this regulation and, if appropriate, regulation 3.

(6) Subject to regulation 3 of these Regulations and regulation 14 of the Fees Regulations (fees for restoration to the Principal List), where an application under this regulation has been made by a person, the Registrar shall restore the applicant's name to the register, and notify him in writing that his name has been so restored.

Investigations in certain cases before restoration of name to register

3.—(1) In any case where—

- (a) an application under regulation 2 is made by a person for restoration of his name to the register; and
- (b) information in writing is or has been received by the Registrar (whether before or after the application has been made or before or after the applicant's name was erased) from which it appears to him that further consideration should be given to the application with reference to the applicant's fitness to practise,

the Registrar shall take the action described in the following paragraphs.

(2) The Registrar shall send the applicant a copy of the relevant information and invite him to submit any observations in writing within 28 days beginning with the date of posting.

(3) On receipt of the applicant's observations, or at the end of the period of 28 days referred to in paragraph (2) whichever is the earlier, the Registrar shall refer the question of whether the applicant's name should be restored to the register to the professional conduct screeners, the health screener or the professional performance screeners, as he considers appropriate, and shall send to the relevant screeners copies of the relevant information received and the applicant's written observations, if any.

(4) Each screener to whom an application has been referred shall consider it and may request additional information to be obtained from the applicant or elsewhere.

(5) After considering the application, each screener to whom it has been referred shall advise the Registrar whether or not in the screener's opinion there is any reason why it should not be approved.

(6) After receiving the advice of each screener in relation to the application, the Registrar shall, subject to regulation 14 of the Fees Regulations (fees for restoration to the Principal List), and unless paragraph (7) applies, restore the applicant's name to the register, and notify him in writing forthwith that his name has been so restored.

(7) Where any screener advises that the application should not be granted without further investigation, the Registrar shall give notice to the applicant in writing—

- (a) stating that, as the case may be, one or more of the professional conduct screeners or professional performance screeners or the health screener have advised that the application should not be approved without further investigation;

- (b) asking if the applicant wishes to withdraw his application and if so to notify the Registrar to that effect within such time as may be specified in the notice, being a period of not less than 28 days beginning on the date on which the notice is given;
- (c) stating that, if not withdrawn, his application will be referred to the Professional Conduct Committee, the Committee on Professional Performance or the Health Committee, as the Registrar considers appropriate, for further consideration; and
- (d) stating the grounds on which the reference is to be made.

(8) In a case falling within paragraph (7) above, if the applicant does not withdraw his application within the time specified in the notice under paragraph (7)(b), the Registrar shall refer the question whether to restore the applicant's name to the register to the Professional Conduct Committee, the Committee on Professional Performance or the Health Committee, as the Registrar considers appropriate.

(9) Where the Committee in question decide to approve the application, the Registrar shall, subject to regulation 14 of the Fees Regulations (fees for restoration to the Principal List), restore the applicant's name to the register forthwith.

(10) In considering any application referred to them under this regulation, the Committee in question may take account of any relevant matter whenever it occurred.

(11) Where an application for restoration of a person's name to the register has been refused by the Professional Conduct Committee, the Health Committee or the Committee on Professional Performance, a subsequent application by that person for his name to be restored to the register may not be made under these Regulations before the expiry of one year beginning with the date on which the Committee in question refused the application or such longer period as may have been determined by the Committee in question when refusing that application.

Amendment of Medical Practitioners Registration (Fees) Regulations 1985

4.—(1) The Medical Practitioners Registration (Fees) Regulations 1985(a) are amended as follows.

(2) In regulation 14, omit “or to the Overseas List” and “or by virtue of regulation 8 of the Medical Practitioners Registration (No. 2) Regulations 1979 (scheduled to the General Medical Council (Registration Regulations) Order of Council 1979),”.

(3) After regulation 15 insert—

“Fee for restoration to the register following voluntary erasure

15A.—(1) The fee payable by a person whose name is to be restored to the register where it has previously been erased by virtue of regulations made under section 31A of the Act (voluntary erasure) shall be the amount of the retention fee (if any) which, if his name had not been so erased, would be due from him in respect of the current year.

(2) The Registrar may refuse to restore to the register any person in respect of whom a fee is payable under paragraph (1) until that fee has been paid.”.

Revocations

5.—(1) The Medical Practitioners Registration (No. 2) Regulations 1979(b) are hereby revoked.

(2) The following provisions of the General Medical Council (Voluntary Erasure and Restoration) Regulations 2000(c) are hereby revoked—

- (a) regulations 3(7) and 5; and
- (b) regulation 3(8) in so far as it is made under section 32(1)(c) of the Act.

Transitional provision

6. The application of a person for restoration to the register—

- (a) whose name has been erased from the register in the circumstances set out in regulation 9(1)(a) or (b) of the 1979 Regulations; and

(a) Appended to S.I. 1986/149; amended by S.I. 1995/2786, 1997/1884, 2000/2033 and 2141, 2001/3668 and 2003/1074.

(b) Appended to S.I. 1979/844.

(c) Scheduled to S.I. 2000/2033; the 2000 Regulations are to be fully revoked by virtue of these Regulations and the Regulations Scheduled to the General Medical Council (Voluntary Erasure and Restoration following Voluntary Erasure) Regulations Order of Council 2003 (S.I. 2003/1341), which is made under section 31A of the Act and which comes into force at the same time as this Order. The full revocation cannot be included in a single instrument as different procedures are required for Orders approving regulations under sections 31A and 32 of the Act: *see* section 51(2) and (3) of the Act.

(b) who has made an application before 1st July 2003 for his name to be restored to the register which is in accordance with regulation 9(2) of the 1979 Regulations, shall be dealt with in accordance with regulation 11 of the 1979 Regulations as if still in force.

Given under the official seal of the General Medical Council this 30th day of May 2003.



Graeme Catto
President

EXPLANATORY NOTE

(This note is not part of the Order)

The Regulations approved by this Order make provision for doctors to apply to the Registrar of the General Medical Council (“the GMC”) for restoration to the register of medical practitioners maintained by the GMC following erasure of their names from that register under section 30(5) of the Medical Act 1983 (failure to respond to the Registrar of the GMC regarding address in the register) or under regulations made under section 32 of that Act (failure to pay the prescribed registration fee). These Regulations also amend the Medical Practitioners Registration (Fees) Regulations 1985 (“the Fees Regulations”).

Regulation 2 sets out the application process for restoration to the register, including the information to be supplied and the circumstances in which the application is to be refused. Regulation 3 sets out the investigations which the Registrar will undertake in certain cases before restoring the doctor’s name to the register. Some cases may be referred to the GMC statutory committees, and if these applications are refused, there is a delay period before the applicant may re-apply.

Regulation 4 amends the Fees Regulations to omit reference to the Overseas List and in particular to insert the fee payable for restoration to the register following voluntary erasure under regulations coming into force at the same time as these Regulations.

Regulation 5 revokes the Medical Practitioners Registration (No. 2) Regulations 1979 and the provisions of the General Medical Council (Voluntary Erasure and Restoration) Regulations 2000 (“the 2000 Regulations”) made under section 32 of the Medical Act 1983 (“the Act”). The 2002 Regulations are fully revoked as from the date this Order comes into force by virtue of the Regulations approved by this Order and the General Medical Council (Voluntary Erasure and Restoration following Voluntary Erasure) Regulations 2003, which revoke the 2000 Regulations in so far as they were made under section 31A of the Act. The full revocation could not be included in a single instrument as different procedures are required for Orders approving Regulations made under section 31A and 32 of the Act.

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