

2003 No. 1343

**HEALTH CARE AND ASSOCIATED PROFESSIONS
DOCTORS**

**The General Medical Council Fitness to Practise
Committees and Review Board for Overseas Qualified
Practitioners (Amendment) Rules Order of Council 2003**

Made - - - - - 5th June 2003
Laid before Parliament 10th 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 the General Medical Council, in exercise of their powers under section 28 (2) and (5) of, and paragraphs 1 and 5 of Schedule 4 to, the Medical Act 1983(a), and of all other powers enabling them in that behalf, and having consulted, in so far as is required by paragraphs 1(4) and 5(3) of Schedule 4 to that Act, with such bodies of persons representing medical practitioners as appeared to them to be requisite, have made the General Medical Council Fitness to Practise Committees and Review Board for Overseas Qualified Practitioners (Amendment) Rules 2003, as set out in the Schedule to this Order:

And whereas by section 28(6) of, and paragraphs 1(5) and 5(3) of Schedule 4 to, that Act such Rules shall not come into force until approved by Order of the Privy Council:

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

This Order may be cited as the General Medical Council Fitness to Practise Committees and Review Board for Overseas Qualified Practitioners (Amendment) Rules Order of Council 2003 and shall come into force on 1st July 2003.

A K Galloway
Clerk of the Privy Council

(a) 1983 c. 54; until article 6(11) of S.I. 2002/3135 comes into force, section 28(2)(b) of the Act applies as substituted by paragraph 3(2)(a) of Schedule 2 to S.I. 2002/3135. Paragraph 1 of Schedule 4 to the Act has been amended by paragraphs 15 and 16 of the Schedule to the Medical (Professional Performance) Act 1995 (c. 51) and by S.I. 2000/1803.

SCHEDULE

THE GENERAL MEDICAL COUNCIL FITNESS TO PRACTISE COMMITTEES AND REVIEW BOARD FOR OVERSEAS QUALIFIED PRACTITIONERS (AMENDMENT) RULES 2003

The General Medical Council in exercise of their powers under section 28(5) of, and paragraphs 1 and 5 of Schedule 4 to, the Medical Act 1983(a), and of all other powers enabling them in that behalf, and having consulted, in so far as is required by paragraphs 1(4) and 5(3) of Schedule 4 to that Act, with such bodies of persons representing medical practitioners as appeared to them to be requisite, hereby make the following Rules:—

Citation, commencement and interpretation

1.—(1) These Rules may be cited as the General Medical Council Fitness to Practise Committees and Review Board for Overseas Qualified Practitioners (Amendment) Rules 2003 and shall come into force on 1st July 2003.

(2) In these Rules—

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

“the Health Rules” means the General Medical Council Health Committee (Procedure) Rules 1987(c);

“the Performance Rules” means the General Medical Council (Professional Performance) Rules 1997(d);

“the Review Board Rules” means the General Medical Council (Review Board for Overseas Qualified Practitioners) Rules 1978(e).

Amendment of the Conduct Rules

2. The Conduct Rules shall be amended as follows—

(a) in rule 2(1), the following definitions shall be inserted at the appropriate alphabetical place—

““the Restoration Regulations” means the General Medical Council (Restoration and Registration Fees Amendment) Regulations 2003(f);”;

““the Voluntary Erasure Regulations” means the General Medical Council (Voluntary Erasure and Restoration following Voluntary Erasure) Regulations 2003(g).”;

(b) in rule 11(6) for “rule 6(3)” there shall be substituted “rule 6(4)”;

(c) for sub-paragraphs (a) and (b) of rule 13(2) the following shall be substituted—

(a) the Committee may subsequently direct either that no reference shall be made or that the Committee’s determination shall become absolute; and

(b) if the Committee directs that no reference shall be made, the Registrar shall inform the practitioner and the complainant (if any) in such terms respectively as the Committee may direct.”;

(d) for rule 19(1) the following shall be substituted—

(1) Where, after the Preliminary Proceedings Committee has referred a complaint or information or a conviction to the Committee for inquiry, it appears to the Chairman of the Preliminary Proceedings Committee (having taken into account any observations of any complainant obtained pursuant to paragraph (1A)) that the inquiry should not be held, he may, after consulting a quorum of the Committee and if they agree, direct that the inquiry shall not be held; and if at the time the direction is given no Notice of inquiry has been sent, rule 17 shall not have effect.

(1A) In any case where there is a complainant the Registrar shall, before the Preliminary Proceedings Committee considers the case under paragraph (1), communicate or endeavour to communicate with the complainant with a view to obtaining the observations of the complainant as to whether the inquiry should be held.”;

(e) after rule 19 the following rule shall be inserted—

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- (a) 1983 c. 54; until article 6(11) of S.I. 2002/3135 comes into force, section 28(2)(b) of the Act applies as substituted by paragraph 3(2)(a) of Schedule 2 to S.I. 2002/3135. Paragraph 1 of Schedule 4 to the Act has been amended by paragraphs 15 and 16 of the Schedule to the Medical (Professional Performance) Act 1995 (c. 51) and by S.I. 2000/1803.
- (b) 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 and 2003/1340.
- (c) Appended to S.I. 1987/2174; amended by S.I. 1996/1219, 1997/1529, 2000/2034 and 2051, 2002/2572 and 2003/1340.
- (d) Scheduled to S.I. 1997/1529; amended by S.I. 2000/2034 and 2051, 2001/3730, 2002/2572 and 2003/1340.
- (e) Appended to S.I. 1979/29.
- (f) Scheduled to S.I. 2003/1342.
- (g) Scheduled to S.I. 2003/1341.

“Delegation to Deputy Chairmen

19A. Anything authorised by these Rules to be done by the Chairman of the Preliminary Proceedings Committee may, if he is unavailable or otherwise unable to act, be done by a Deputy Chairman of the Committee.”;

- (f) for the title of Part VIIA there shall be substituted “Applications for Restoration in Accordance with the Voluntary Erasure Regulations or the Restoration Regulations”;
- (g) for rule 46A(1) the following shall be substituted—

“(1) This Part shall apply in relation to any application by a person for restoration of his name to the register—

- (a) under regulation 3 of the Voluntary Erasure Regulations, which has been referred to the Committee by the Registrar under regulation 4(8) of those Regulations; or
- (b) under regulation 2 of the Restoration Regulations, which has been referred to the Committee by the Registrar under regulation 3(8) of those Regulations.”;
- (h) in rule 46A(2), for the words “the 2000 Regulations” there shall be substituted the words “the Voluntary Erasure Regulations or the Restoration Regulations, whichever is applicable”;
- (i) in rule 46A(4)(k), for the words “two years” there shall be substituted the words “one year” and for the words “regulation 3 of the 2000 Regulations” there shall be substituted “regulation 4(11) of the Voluntary Erasure Regulations or regulation 3(11) of the Restoration Regulations, whichever is applicable.”; and
- (j) after rule 46A the following rule shall be inserted—

“46B Procedure for consideration of restoration following voluntary erasure applications made before 1st July 2003

An application for restoration which has been referred to the Committee by virtue of regulation 6(b) of the Voluntary Erasure Regulations in accordance with the Medical Practitioners (Voluntary Erasure and Restoration) Regulations 2000 shall be dealt with in accordance with rule 46A above as in force on 30th June 2003.”

Amendment of the Health Rules

3. The Health Rules shall be amended as follows—

- (a) in rule 2(1)—
 - (i) the following definition shall be inserted at the appropriate alphabetical place—

““the Restoration Regulations” means the General Medical Council (Restoration and Fees Amendment) Regulations 2003;”;

and
 - ““the Voluntary Erasure Regulations” means the General Medical Council (Voluntary Erasure and Restoration following Voluntary Erasure) Regulations 2003;”;
- (ii) the definition of “the 2000 Regulations” shall be omitted;
- (b) in rule 14(1), for the words from “the present members” to the end of that paragraph the words “a quorum of the latter Committee, and if those Committee members consulted so agree.” shall be substituted;
- (c) rule 14(2) shall be omitted;
- (d) for rule 33C the following shall be substituted—

“General

33C. This Part shall apply in relation to any application by a person for restoration of his name to the register—

- (a) under regulation 3 of the Voluntary Erasure Regulations, which has been referred to the Committee by the Registrar under regulation 4(8) of those Regulations; or
- (b) under regulation 2 of the Restoration Regulations, which has been referred to the Committee by the Registrar under regulation 3(8) of those Regulations.”;
- (e) in rule 33D(1), for the words “the 2000 Regulations” there shall be substituted the words “the Voluntary Erasure Regulations or the Restoration Regulations, whichever is applicable”;
- (f) in rule 33F(9), for the words “two years” there shall be substituted the words “one year” and for the words “regulation 3 of the 2000 Regulations” there shall be substituted “regulation 4(11) of the Voluntary Erasure Regulations or regulation 3(11) of the Restoration Regulations, whichever is applicable.”;
- (g) in rule 33G(e), for the words “the application under regulation 3 of the 2000 Regulations” there shall be substituted “the application for restoration under regulation 3 of the Voluntary Erasure Regulations or the application for restoration under regulation 2 of the Restoration Regulations”; and
- (h) after rule 33H the following rule shall be inserted

“33I Procedure for consideration of restoration following voluntary erasure applications made before 1st July 2003

An application for restoration which has been referred to the Committee by virtue of regulation 6(b) of the Voluntary Erasure Regulations in accordance with the Medical Practitioners (Voluntary Erasure and Restoration) Regulations 2000 shall be dealt with in accordance with this Part as in force on 30th June 2003.”.

Amendment of the Performance Rules

4. The Performance Rules shall be amended as follows—
 - (a) in rule 2(1)—
 - (i) for the definition of “case co-ordinator” the following shall be substituted—

““case co-ordinator” means a person appointed by the Council in accordance with rule 7(2);”, and
 - (ii) the following definitions shall be inserted at the appropriate alphabetical place—

““the Restoration Regulations” means the General Medical Council (Restoration and Registration Fees Amendment) Regulations 2003;”, and

““the Voluntary Erasure Regulations” means the General Medical Council (Voluntary Erasure and Restoration following Voluntary Erasure) Regulations 2003.”; and
 - (b) for rule 7 substitute the following rule—

Case co-ordinator

7.—(1) Where an Assessment Panel is to be constituted pursuant to directions given by either the Assessment Referral Committee or the Committee on Professional Performance or in circumstances specified in rule 6, a case co-ordinator shall—

- (a) appoint members of the Assessment Panel from the lists referred to in rule 8(4); and
- (b) perform the functions conferred on a case co-ordinator under these Rules.

(2) The Council shall appoint one or more doctors to act as case co-ordinators for the purposes of these Rules.”.

- (c) for rule 30A(1), the following shall be substituted—

“(1) This Part shall apply in relation to any application by a person for restoration of his name to the register—

- (a) under regulation 3 of the Voluntary Erasure Regulations, which has been referred to the Committee by the Registrar under regulation 4(8) of those Regulations; or
- (b) under regulation 2 of the Restoration Regulations, which has been referred to the Committee by the Registrar under regulation 3(8) of those Regulations.”;
- (d) in rule 30C(1), for the words “the 2000 Regulations” there shall be substituted the words “the Voluntary Erasure Regulations or the Restoration Regulations, whichever is applicable”;
- (e) in rule 30D(9), for the words “two years” there shall be substituted the words “one year” and for the words “regulation 3 of the 2000 Regulations” there shall be substituted “regulation 4(11) of the Voluntary Erasure Regulations or regulation 3(11) of the Restoration Regulations, whichever is applicable;”, and
- (f) after rule 30E the following rule shall be inserted—

“30F Procedure for consideration of restoration following voluntary erasure applications made before 1st July 2003

An application for restoration which has been referred to the Committee by virtue of regulation 6(b) of the Voluntary Erasure Regulations in accordance with the Medical Practitioners (Voluntary Erasure and Restoration) Regulations 2000 shall be dealt with in accordance with this Part as in force on 30th June 2003.”.

Amendment of the Review Board Rules

5. The Review Board Rules shall be amended as follows—
 - (a) in rule 2—
 - (i) after the definition of “the Act of 1978” there shall be inserted—

““the Act of 1983” means the Medical Act 1983;”, and
 - (ii) after the definition of “the Council” there shall be inserted—

““lay person” means a person who is neither fully registered nor a holder of any qualification registrable under the Act of 1983;”,
 - (b) for rule 5 the following shall be substituted—

“5.—(1) The body concerned with postgraduate medical education in England and Wales, in Scotland, and in Northern Ireland, to whose recommendations the President shall have regard when appointing a Chairman and Deputy Chairman of the Board under section 28(2)(a) of the Act of 1983, shall be the Conference of Postgraduate Medical Deans of the United Kingdom.

(2) The Board shall comprise, in addition to the Chairman and Deputy Chairman, 8 other persons appointed by the Council, including at least—

- (i) one person who is neither registered with the Council nor a holder of any qualification registrable under the Act of 1983, and
 - (ii) one person who is or has been registered under Part III of the Act of 1956, under section 18 or 22 of the Act of 1978 or under section 19, 21A, 22 or 25 of the Act of 1983.”;
- (c) rule 6 shall be omitted;
- (d) for rule 7 the following shall be substituted—

“7. The Registrar shall arrange for no more than five members of the Board to attend and hear any application, who shall include either the Chairman or the Deputy Chairman, at least one member of the Board who is or has been registered under Part III of the Act of 1956 or under section 18 or 22 of the Act of 1978 or under section 19, 21A, 22 or 25 of the Act of 1983, and at least one lay person, but no person shall be eligible to take part in the review of any decision in which he was previously involved as a member of any committee of the Council.”;

(e) for rule 10 the following shall be substituted—

“10(1) There shall be an oral hearing of the application if the applicant so requests in the application mentioned in rule 9(a) or if the Board considers that such a hearing is desirable.

(2) Subject to paragraph (3), the hearing shall be in public if the applicant so requests or if the Board otherwise considers it appropriate but the Board may, if satisfied that it is in the interests of the applicant, exclude the public from being present during any part of the proceedings.

(3) The Board may for the purpose of deliberation, at any time exclude the applicant, his representative, any representative of the Council or the public.”;

(f) in rule 11—

- (i) omit paragraph (a), and
 - (ii) in paragraph (b) omit “also”; and
- (g) in rule 13, omit paragraph (f).

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 amendments to the General Medical Council Preliminary Proceedings Committee and Professional Conduct Committee (Procedure) Rules 1988 (“the Conduct Rules”), the General Medical Council Health Committee (Procedure) Rules 1987 (“the Health Rules”), the General Medical Council (Professional Performance) Rules 1997 (“the Performance Rules”) and the General Medical Council (Review Board for Overseas Qualified Practitioners) Rules 1978 (“the Review Board Rules”), which were all made by the General Medical Council (“GMC”) and relate to the composition and procedures of the GMC’s statutory committees.

The Conduct Rules are amended so that the Preliminary Proceedings Committee, rather than its Chairman, will have the power to confirm or reverse a provisional determination that a reference be made to the Professional Conduct Committee of the GMC (rule 2(b)), so that the views of complainants are to be taken into account before a decision is taken by the Preliminary Proceedings Committee that an inquiry should not be held (rule 2(c)), and so that Deputy Chairmen may stand in for the Chairman of the Preliminary Proceedings Committee (rule 2(d)). The Conduct Rules are also updated with consequential amendments arising out of the General Medical Council (Voluntary Erasure and Restoration following Voluntary Erasure) Regulations 2003 and the General Medical Council (Restoration and Fees Amendment) Regulations 2003. Parallel changes are made to the Health Rules and the Performance Rules (rules 3 and 4).

The Review Board Rules are updated so that the Conference of Postgraduate Medical Deans of the United Kingdom, rather than the Council for Postgraduate Medical Education in England and Wales, the Scottish Council for Postgraduate Medical Education, and the Northern Ireland Council for Postgraduate Medical Education, has a formal role in recommending appointments to the Review Board for Overseas Qualified Practitioners, and to reflect the fact that earlier consideration of cases will have been by a committee of the GMC rather than by the GMC. The composition of the Board is changed: none of the members now need be members of the GMC, and consequential changes are made to reflect this (rule 5(a) to (d)). In addition, rule 5(e) amends the Review Board Rules to provide an applicant with a right to request an oral hearing in any circumstances, and consequential changes are again made to reflect this (rule 5(f) and (g)).

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