

2004 No. 2607

**HEALTH CARE AND ASSOCIATED PROFESSIONS
DOCTORS**

**The General Medical Council (Fitness to Practise)
(Disqualifying Decisions and Determinations by
Regulatory Bodies) Procedure Rules Order of Council 2004**

<i>Made</i> - - - - -	<i>4th October 2004</i>
<i>Laid before Parliament</i>	<i>7th October 2004</i>
<i>Coming into force</i> - -	<i>1st November 2004</i>

At the Council Chamber, Whitehall, the 4th day of October 2004

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

Whereas, in exercise of their powers under paragraph 1 of Schedule 4 to, the Medical Act 1983(a) and of all other powers enabling it in that behalf, the General Medical Council has made the General Medical Council (Fitness to Practise) (Disqualifying Decisions and Determinations by Regulatory Bodies) Procedure Rules 2004 as set out in the Schedule to this Order:

And whereas by paragraph 1(7) of that Schedule such rules shall not come into force until approved by Order of the Privy Council:

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

Citation and commencement

1. This Order may be cited as the General Medical Council (Fitness to Practise) (Disqualifying Decisions and Determinations by Regulatory Bodies) Procedure Rules Order of Council 2004, and shall come into force on 1st November 2004.

Revocation

2. The General Medical Council Professional Conduct Committee (EC Practitioners) (Procedure) Rules Order of Council 1989(b) is revoked.

A. K. Galloway
Clerk of the Privy Council

(a) 1983 c. 54; paragraph 1 of Schedule 4 was substituted by article 14 of S.I. 2002/3135.
(b) S.I. 1989/1837.

SCHEDULE

THE GENERAL MEDICAL COUNCIL (FITNESS TO PRACTISE) (DISQUALIFYING DECISIONS AND DETERMINATIONS BY REGULATORY BODIES) PROCEDURE RULES 2004

The General Medical Council, in exercise of its powers under paragraph 1 of Schedule 4 to the Medical Act 1983(a) and of all other powers enabling it in that behalf, hereby makes the following rules:—

Arrangement of Rules

1. Citation and commencement
2. Interpretation
3. Referral of cases
4. Notice of hearing
5. Procedure before a FTP Panel
6. General
7. Revocation

Citation and Commencement

1. These Rules may be cited as the General Medical Council (Fitness to Practise) (Disqualifying Decisions and Determinations by Regulatory Bodies) Procedure Rules 2004 and shall come into force on 1st November 2004.

Interpretation

2. In these Rules—

“the Act” means the Medical Act 1983;

“the Committee” means the Investigation Committee;

“disqualifying decision” shall be construed in accordance with section 44(2) of the Act;

“the Fitness to Practise Rules” means the General Medical Council (Fitness to Practise) Rules 2004;

“FTP Panel” means a Fitness to Practise Panel constituted under rules made under paragraph 19E of Part III of Schedule 1 to the Act;

“practitioner” means a registered medical practitioner;

“the Presenting Officer” means the representative of the General Council instructed by the Registrar to present the case on behalf of the General Council at any hearing before a FTP Panel or the Committee, and may include solicitor or counsel;

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

“regulatory body” shall be construed in accordance with section 35C(9) of the Act.

Referral of cases

3. Where the Registrar receives information that—

- (a) a practitioner registered by virtue of section 3(1)(b) of the Act for a period of not less than one month, is subject to a disqualifying decision which decision has been in force throughout the period he has been registered; or
- (b) a practitioner registered by virtue of any section of the Act other than section 3(1)(b) or 18 for a period of not less than one month, is subject to a determination by a regulatory body that his fitness to practise is impaired which determination has been in force throughout the period he has been registered,

the Registrar may refer the matter for consideration by a FTP Panel in accordance with rule 5.

Notice of hearing

4. Where a matter has been referred to a FTP Panel under rule 3, the Registrar shall give no less than 28 days notice of the hearing to the practitioner—

- (a) specifying the date, time and venue of the hearing;
- (b) informing him of his right to attend the hearing and to be represented at the hearing in accordance with rule 33 of the Fitness to Practise Rules;

(a) 1983 c. 54; as substituted by, S.I. 2002/3135.

- (c) informing him of the power of the FTP Panel to proceed in his absence under rule 31 of the Fitness to Practise Rules; and
- (d) informing him of the FTP Panel's powers of disposal under section 44(5) or 44A(4) of the Act.

Procedure before a FTP Panel

5. Where a matter has been referred for consideration under rule 3, the order of proceedings before the FTP Panel shall be as follows—

- (a) the Chairman of the FTP Panel shall—
 - (i) where the practitioner is present, require the practitioner to confirm his name and registration number, or
 - (ii) otherwise, require the Presenting Officer to confirm the practitioner's name and registration number;
- (b) the Presenting Officer shall open the case for the General Council and shall present details of the disqualifying decision or determination and the facts upon which it is based and, where the FTP Panel considers such evidence is desirable to enable it to discharge its functions under this rule, may adduce any relevant oral or documentary evidence;
- (c) the practitioner may open his case and, where the FTP Panel considers such evidence is desirable to enable it to discharge its functions under this rule, may adduce any relevant oral or documentary evidence; may adduce evidence and call witnesses in support of it;
- (d) the parties may make such further submissions as the FTP Panel may allow;
- (e) the FTP Panel shall consider and announce its findings of fact;
- (f) the FTP Panel may receive further evidence and hear any further submissions from the parties as to whether the FTP Panel should suspend the practitioner's registration in accordance with section 44(5) or 44A(4) of the Act;
- (g) the FTP Panel shall consider and announce its decision as to whether to suspend the practitioner's registration in accordance with section 44(5) or 44A(4) of the Act and shall give reasons for its decision; and
- (h) in making its decision, the FTP Panel shall, where appropriate, take into account the practitioner's previous fitness to practise history with the General Council or any other regulatory body.

General

6. Where a matter has been referred to a FTP Panel under rule 3, rules 28 to 31, 33 to 35 and 37 to 42 of the Fitness to Practise Rules shall apply as if—

- (a) references to a Panel were references to a FTP Panel;
- (b) references to the Committee were omitted;
- (c) references to an allegation were references to a matter referred to a FTP Panel under rule 3;
- (d) rule 28(1)(b), 28(2)(a) and 29(1)(a) of the Fitness to Practise Rules were omitted;
- (e) in rule 34(9), the words "or directed by a Case Manager" were omitted;
- (f) in rule 34(11) of the Fitness to Practise Rules, the words "having regard to any directions given by a Case Manager" were omitted;
- (g) in rule 35(2)(d) of the Fitness to Practise Rules, the words "and, with the leave of the Chairman at the hearing, a specialist health adviser or specialist performance adviser" were omitted;
- (h) rules 41(3)(a), 41(4) and 41(5) were omitted; and
- (i) in rule 41(6) of the Fitness to Practise Rules—
 - (i) the words "Subject to paragraph (5)" were omitted, and
 - (ii) the words "paragraph (3)(b)" were substituted for the words "paragraph (3)(a) or (b)".

Revocation

7. The General Medical Council Professional Conduct Committee (EC Practitioners) (Procedure) Rules 1989(a) are hereby revoked.

Given under the official seal of the General Medical Council this 15th day of September 2004

Professor Sir Graeme Catto
President

(a) Scheduled to S.I. 1989/1837.

EXPLANATORY NOTE

(This note is not part of the Order)

The Rules approved by this Order make provision for the referral and disposal of cases under section 44 (effect of disqualification in another member State on registration in the United Kingdom) and 44A (effect of disqualification or conviction on registration) of the Medical Act 1983. Those provisions were substituted by article 13 of the Medical Act 1983 (Amendment) Order 2002 (S.I. 2002/3135).

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