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STATUTORY INSTRUMENTS

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**2003 No. 1341**

**HEALTH CARE AND  
ASSOCIATED PROFESSIONS**

**DOCTORS**

**The General Medical Council (Voluntary  
Erasure and Restoration following Voluntary  
Erasure) Regulations Order of Council 2003**

<i>Made</i>	- - - -	<i>5th June 2003</i>
<i>Laid</i>	- - - -	<i>10th June 2003</i>
<i>Coming into force</i>	- -	<i>1st July 2003</i>

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 section 31A of the Medical Act 1983(1) and of all other powers enabling them in that behalf, the General Medical Council have made the General Medical Council (Voluntary Erasure and Restoration following Voluntary Erasure) Regulations 2003 as set out in the Schedule to this Order:

And whereas by section 31A(2) 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 (Voluntary Erasure and Restoration following Voluntary Erasure) Regulations Order of Council 2003 and shall come into force on 1st July 2003.

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(1) 1983 c. 54; section 31A was inserted by section 2 of the Medical (Professional Performance) Act 1995 (c. 51).

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## Revocation

2. The General Medical Council (Voluntary Erasure and Restoration) Regulations Order of Council 2000(2), except in so far as it relates to the following provisions of the General Medical Council (Voluntary Erasure and Restoration) Regulations 2000(3), is 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 Medical Act 1983.

*A. K. Galloway*  
Clerk of the Privy Council

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(2) S.I.2000/2033.

(3) 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 (Restoration and Registration Fees Amendment) Regulations Order of Council 2003 (S.I. 2003/1342), which is made in part under section 32 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 (VOLUNTARY ERASURE AND RESTORATION FOLLOWING VOLUNTARY ERASURE) REGULATIONS 2003**

The General Medical Council, in exercise of their powers under section 31A of the Medical Act 1983(4) and of all other powers enabling them in that behalf, hereby make the following Regulations:

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#### **Citation, commencement and interpretation**

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

(2) In these Regulations—

“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(5);

“doctor” means a registered medical practitioner;

“the Fees Regulations” means the Medical Practitioners (Fees) Regulations 1985(6);

“health screener” means a person appointed under rule 5(2) or (3) of the General Medical Council Health Committee (Procedure) Rules 1987(7) 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(8); and

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

#### **Voluntary erasure of doctor’s name from the register**

2.—(1) Any doctor may apply to the Registrar in accordance with this regulation for his name to be erased from the register, referred to hereafter as an application for voluntary erasure.

(2) Subject to paragraph (3), an application for voluntary erasure shall be made by a doctor in writing and shall include the following—

(a) the doctor’s name and his registration number;

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(4) 1983 c. 54; section 31A was inserted by section 2 of the Medical (Professional Performance) Act 1995 (c. 51) and amended by S.I. 2002/3135.

(5) 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.

(6) Scheduled to S.I. 1986/149; amended by S.I. 1995/2786, 1997/1884, 2000/2033 and 2141, 2001/3668, 2003/1074 and 2003/1342.

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

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

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- (b) an address to which the Registrar is to send to the doctor all written communications relating to the application;
- (c) a statement complying with paragraph (4) made and signed by the doctor;
- (d) the name and address of his principal current employer, if any, or any body or organisation to which he is contracted to provide medical services or, if he is not currently employed or contracted, the name and address of his principal last employer or the body or organisation to which he was most recently contracted to provide medical services (disregarding any person for whom he works or worked otherwise than in a medical capacity);
- (e) a statement complying with paragraph (4) made by the person named in accordance with sub-paragraph (d) and signed by that person or by a director or officer of that person; and
- (f) a statement complying with paragraph (4) made by an officer of any regulatory body in the United Kingdom other than the General Medical Council which is responsible for the regulation of a health or social care profession and with which the applicant is currently registered or has been registered in the previous 5 years,

and an application may be delivered by hand or sent by post to the Registrar.

(3) Sub-paragraphs (d) and (e) of paragraph (2) shall not apply where the applicant states in writing that he has not been employed or contracted to provide medical services at any time during the previous 5 years.

(4) The statements referred to in sub-paragraphs (c), (e) and (f) 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 doctor which might render him liable to be referred to the General Medical Council (including any Committee of the Council) in relation to his conduct; or
- (b) give particulars of any proceedings or act or omission which might render the doctor liable to be so referred.

(5) Subject to paragraphs (6) and (7), where an application for voluntary erasure which complies with paragraph (2) is received, the Registrar shall erase the name of the doctor from the register as soon as reasonably practicable.

(6) Where a complaint or information relating to the doctor is made or received which falls within rule 5(1) or 6(1) of the Conduct Rules, and the matter has not yet been finally disposed of, the Registrar shall not erase the doctor's name from the register under this regulation except in accordance with paragraph (7).

(7) Where paragraph (6) applies, the Registrar shall not erase the doctor's name unless the erasure is agreed—

- (a) where the case has not been referred to the Preliminary Proceedings Committee or to the Professional Conduct Committee, by the professional conduct screeners;
- (b) where the case has been referred to the Preliminary Proceedings Committee or to the Professional Conduct Committee but has not yet been opened under rule 24 of the Conduct Rules, by the Preliminary Proceedings Committee;
- (c) where the case has been opened under rule 24 of the Conduct Rules, by the Professional Conduct Committee.

(8) The Registrar shall notify the doctor in writing as soon as reasonably practicable that his name has been erased from the register or that the case has been referred to the Preliminary Proceedings Committee or to the Professional Conduct Committee.

(9) If in a case to which paragraph (7) applies erasure is not agreed, the case shall proceed to its conclusion in accordance with the Conduct Rules.

### **Restoration of a person's name to the register following voluntary erasure**

3.—(1) A person whose name has been erased under regulation 2 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; and
- (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
  - (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 applicant 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 the period 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 4.

(6) Subject to regulation 4 below and regulation 15A(2) of the Fees Regulations (fee for restoration to the register following voluntary erasure), where an application under this regulation

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has been made, 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**

4.—(1) Where—

- (a) an application under regulation 3 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 it is appropriate for further consideration to 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 to the applicant a copy of the relevant information and invite the applicant 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 15A(2) of the Fees Regulations (fee for restoration to the register following voluntary erasure) 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 the applicant's name should be restored to the register to the Professional Conduct Committee, the Committee on Professional Performance or the Health Committee, as the Registrar considers appropriate.

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(9) Where the Committee in question decide to approve the application, the Registrar shall, subject to regulation 15A(2) of the Fees Regulations (fee for restoration to the register following voluntary erasure), 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.

### **Revocations**

5. The General Medical Council (Voluntary Erasure and Restoration) Regulations 2000<sup>(9)</sup>, except for the following provisions 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 Medical Act 1983.

### **Transitional provision**

6. An application for—

- (a) voluntary erasure made before 1st July 2003 in accordance with regulation 2 of the General Medical Council (Voluntary Erasure and Restoration) Regulations 2000; and
- (b) restoration of a persons name to the register made before 1st July 2003 in accordance with regulation 3 of those Regulations,

shall be dealt with in accordance with those Regulations as if they were still in force.

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(9) 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 (Restoration and Registration Fees Amendment) Regulations Order of Council 2003 (S.I. 2003/1342), which is made in part under section 32 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.

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

L.S.

*Graeme Catto*  
President

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### **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 (“GMC”) to have their names erased from the register of medical practitioners maintained by the GMC (voluntary erasure) and also make provision for doctors to apply to have their names restored to the register following voluntary erasure.

Regulation 2 sets out the application process for voluntary erasure including the information to be supplied and the circumstances in which the application is to be refused. Regulation 3 sets out the application process for restoration to the register following voluntary erasure.

Regulation 4 provides for the Registrar to undertake investigations in certain cases before restoring the doctor’s name to the register. Some cases may be referred to the GMC’s statutory committees, and if these applications are refused, there is a delay period before the applicant may reapply.

Regulation 5 revokes the General Medical Council (Voluntary Erasure and Restoration) Regulations 2000 (“the 2000 Regulations”), in so far as they are made under section 31A of the Medical Act 1983 (“the Act”). The 2000 Regulations are fully revoked as from the date this Order comes into force by virtue of the Regulations approved by this Order and by the General Medical Council (Restoration and Registration Fees Amendment) Regulations 2003, which revoke the 2000 Regulations in so far as they were made under section 32 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 section 32 of the Act.