

2004 No. 215

HEALTH CARE AND ASSOCIATED PROFESSIONS

DOCTORS

**The General Medical Council (Suspension and Removal of
Members from Office) Rules Order of Council 2004**

Made - - - - - 27th January 2004

Laid before Parliament 9th February 2004

Coming into force - - 1st March 2004

At the Council Chamber, Whitehall, the 27th day of January 2004

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

Whereas, in exercise of their powers under paragraph 4A(1) of Schedule 1 to 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 (Suspension and Removal of Members from Office) Rules 2004 as set out in the Schedule to this Order:

And whereas by paragraph 4A(4) of Schedule 1 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 (Suspension and Removal of Members from Office) Rules Order of Council 2004 and shall come into force on 1st March 2004.

A.K. Galloway
Clerk of the Privy Council

(a) 1983 c. 54. Paragraph 4A(1) of Schedule 1 was inserted by article 4(6) of S.I. 2002/3135.

SCHEDULE

THE GENERAL MEDICAL COUNCIL (SUSPENSION AND REMOVAL OF MEMBERS FROM OFFICE) RULES 2004

The General Medical Council, in exercise of their powers under paragraph 4A(1) of Schedule 1 to the Medical Act 1983(a) and of all other powers enabling them in that behalf, hereby make the following Rules:—

Citation and commencement

1. These Rules may be cited as the General Medical Council (Suspension and Removal of Members from Office) Rules 2004 and shall come into force on 1 March 2004.

Interpretation

2.—(1) In these Rules—

“Act” means the Medical Act 1983;

“Council” means the General Medical Council;

“final outcome” means the outcome following the exhaustion of any right of appeal;

“licensing body” means any body other than the Council that licenses or regulates any profession;

“member” means a person duly elected, appointed or nominated to the Council in accordance with the provisions of Schedule 1 to the Act, and, for the purposes of rule 7, includes a member who has been suspended from office;

“medical member” means an elected member or an appointed member.

(2) Where under these Rules a person is removed from office they shall also be removed from membership of any committee of the Council and any position to which the member has been appointed by the Council or one of its committees.

Suspension or removal of a medical member following fitness to practise proceedings under the Act

3.—(1) Where—

(a) a medical member ceases to be a registered medical practitioner; or

(b) his registration is suspended by virtue of a direction made under Part V of the Act, except by virtue of a direction made under section 38, 41A or 41B of the Act or under Rules made under paragraph 5A of Schedule 4 to the Act,

he shall be removed from office with effect from the date when he ceased to be registered or his registration was suspended.

(2) Subject to paragraph (3), where the registration of a medical member is suspended by virtue of a direction made under section 38, 41A or 41B of the Act or under Rules made under paragraph 5A of Schedule 4 to the Act, he shall be suspended from office with effect from the date when his registration is suspended until his suspension from registration is terminated.

(3) A person shall not be restored to membership of the Council if—

(a) his term of office has come to an end; or

(b) immediately after the suspension comes to an end—

(i) his name is erased from the register, or

(ii) he is suspended under section 36, 36A or 37 of the Act.

Suspension or removal from office

4. A member shall be removed from office if—

(a) he has been convicted of a criminal offence in the British Islands or has been convicted of an offence elsewhere which, if committed in England or Wales, would constitute a criminal offence, and in either case has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine and which has not been quashed on appeal;

(b) he has been—

(i) removed from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity for which he was responsible or to which he was privy, or which he by his conduct contributed to or facilitated, or

(a) 1983 c. 54. Paragraph 4A(1) of Schedule 1 was inserted by article 4(6) of S.I. 2002/3135.

- (ii) removed under section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (powers of Court of Session to deal with management of charities) from being concerned in the management or control of any body;
- (c) his attendance at meetings of the Council or Council committees falls below a minimum level as set out in standing orders of the Council and the Council are satisfied that this is not for reasonable cause;
- (d) the Council are satisfied that he has become incapable of performing his duties by reason of his physical or mental health;
- (e) he has been subject to an investigation or proceedings concerning his professional conduct by any licensing body anywhere in the world where the final outcome was adverse, and the Council are satisfied that the licensing body's findings were such that it would be unsuitable for the member to continue to hold office; or
- (f) the Council are satisfied that his continued membership is liable to undermine confidence in the regulation of the medical profession.

5. A member may be suspended from office whilst the Council considers whether to remove him from office under rule 4(a), (b), (d), (e) or (f).

6.—(1) The Council shall notify the member of a decision to remove or suspend him from office under rule 4 or 5.

(2) A decision to remove or suspend a member from office under rule 4 or 5 shall take effect when written notice of the decision has been served upon the member.

(3) For the purposes of this rule, written notice may be served by the Registrar giving or sending it to the member by personal delivery, or by sending it to him by a registered post service, or by a postal service which provides for delivery or receipt to be recorded, at his usual address.

7.—(1) Subject to paragraphs (3) and (4) of this rule, a period of suspension under rule 5 shall not exceed six months.

(2) The Council shall review any suspension, including a period of suspension under paragraph (4)(b), before the period of suspension expires, if at the end of that period the member would, unless a further period of suspension is directed, have resumed office.

(3) The Council may at any time review a suspension, and it shall review a suspension after three months if so requested by the member.

(4) Where the Council review a suspension under this rule, they may—

- (a) revoke the suspension, in which case it shall cease to have effect, or
- (b) suspend the member from office for a further period of not more than six months from the expiry of the current period of suspension.

(5) Where the Council make a decision to suspend the member under paragraph (4)(b), rule 6 shall apply as it applies to a suspension under rule 5.

Given under the official seal of the General Medical Council this 14th day of January, 2004.



Graeme Catto
President

EXPLANATORY NOTE

(This note is not part of the Order)

The Rules approved by this Order make provision for the suspension and removal from office of members of the General Medical Council (“GMC”).

Rule 3 sets out the consequences for medical members in respect of their holding office where they are suspended or erased from the GMC’s register.

Rule 4 sets out the circumstances which may warrant the GMC removing a member from office.

Rule 5 gives the GMC the power to suspend a member from office pending consideration of matters which may warrant removal from office under rule 4.

Rule 6 is about notification procedures and rule 7 sets out the requirements for the review of suspension of a member’s office.

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