

2004 No. 2609

**HEALTH CARE AND ASSOCIATED PROFESSIONS
DOCTORS**

**The General Medical Council (Voluntary Erasure and
Restoration following Voluntary Erasure) Regulations
Order of Council 2004**

Made - - - - - *4th October 2004*
Laid before Parliament *7th October 2004*
Coming into force - - *1st November 2004*

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 section 31A 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 (Voluntary Erasure and Restoration following Voluntary Erasure) Regulations 2004 as set out in the Schedule to this Order:

And whereas by section 31A(2) of that Act such regulations shall not come into force until approved by Order of the Privy Council:

Now, therefore, Their Lordships, having taken these 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 2004, and shall come into force on 1st November 2004.

Revocation

2. The General Medical Council (Voluntary Erasure and Restoration following Voluntary Erasure) Regulations Order of Council 2003(b) is revoked.

A. K. Galloway
Clerk of the Privy Council

(a) 1983 c. 54; section 31A was inserted by the Medical (Professional Performance) Act 1995 (c. 51), section 2 and amended by S.I. 2002/3135.
(b) S.I. 2003/1341.

SCHEDULE

THE GENERAL MEDICAL COUNCIL (VOLUNTARY ERASURE AND RESTORATION FOLLOWING VOLUNTARY ERASURE) REGULATIONS 2004

The General Medical Council, in exercise of its powers under section 31A of the Medical Act 1983(a), and of all other powers enabling it in that behalf, hereby makes the following Regulations:—

Arrangement of Regulations

1. Citation and commencement
2. Interpretation
3. Voluntary erasure applications
4. Restoration applications
5. Restoration procedure where fitness to practise issues arise
6. Revocation
7. Transitional arrangements

Citation and commencement

1. These Regulations may be cited as the General Medical Council (Voluntary Erasure and Restoration following Voluntary Erasure) Regulations 2004, and shall come into force on 1st November 2004.

Interpretation

2. In these Regulations—
 - “**the Act**” means the Medical Act 1983;
 - “**applicant**” means a person applying for his name to be restored to the register in accordance with regulation 4;
 - “**Case Examiner**” means a medical or lay officer of the General Council appointed by the Registrar under the Fitness to Practise Rules, and “**Case Examiners**” means the medical and lay Case Examiners to whom an application is referred under regulation 3(4), 4(4) or 7(2) and includes any replacement Case Examiner appointed by the Registrar;
 - “**the Committee**” means the Investigation Committee;
 - “**erasure application**” means an application for voluntary erasure made in accordance with regulation 3;
 - “**the Fees Regulations**” means the Medical Practitioners (Fees) Regulations 1985(b);
 - “**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;
 - “**lay**”, in relation to any person, means a person who is neither a registered medical practitioner nor a holder of any qualification registrable under the Act;
 - “**medical**”, in relation to any person, means a registered medical practitioner;
 - “**practitioner**” means a registered medical practitioner;
 - “**the register**” means the register of medical practitioners maintained in accordance with section 2(1) of the Act;
 - “**regulatory body**” shall be construed in accordance with section 35C(9) of the Act; and
 - “**restoration application**” means an application for restoration made in accordance with regulation 4.

Voluntary erasure applications

- 3.—(1) A practitioner may apply in writing to the Registrar in accordance with this regulation for his name to be erased from the register.

(a) 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.

(b) Scheduled to S.I. 1986/149, and amended by regulations scheduled to S.I. 2003/1342.

- (2) An erasure application shall include the following—
- (a) the practitioner’s name and registration number;
 - (b) the practitioner’s registered address or, if post is unlikely to reach him there, an address to which the Registrar is able to send to the practitioner written communications relating to the application;
 - (c) the name and address of—
 - (i) any person, body or organisation by whom the practitioner is employed to provide medical services, and
 - (ii) any person, body or organisation with whom the practitioner has an arrangement to provide medical services;
 - (d) where paragraph (c) does not apply and save where the practitioner provides a statement under sub-paragraph (f), the name and address of the person, body or organisation which most recently employed the practitioner to provide medical services or with whom he most recently had an arrangement to do so;
 - (e) a statement by—
 - (i) the practitioner,
 - (ii) save where the practitioner provides a statement under sub-paragraph (f), any person or an officer of any body or organisation named in accordance with sub-paragraph (c) or (d), and
 - (iii) an officer of any regulatory body other than the General Council with which the practitioner has been registered within the period of 5 years ending with the date of the erasure application,
 which—
 - (aa) states that the person making it is not aware of any proceedings, act or omission on the part of the practitioner which might render him liable to be referred to the General Council for investigation or consideration of his fitness to practise, or
 - (bb) gives particulars of any proceedings, act or omission on the part of the practitioner which might render him so liable; and
 - (f) where the practitioner has not been employed or had an arrangement to provide medical services at any time during the period of 5 years ending with the date of the erasure application, a statement confirming that this is the case.
- (3) On receipt of an erasure application, the Registrar shall, as soon as is reasonably practicable—
- (a) erase the practitioner’s name from the register;
 - (b) refer the application to a medical and a lay Case Examiner under paragraph (4) for determination in accordance with paragraphs (5) to (7);
 - (c) refer the application to a FTP Panel under paragraph (8) for determination; or
 - (d) where the application does not comply with paragraph (2), reject the application.
- (4) Where—
- (a) the Registrar receives information (including any information provided in accordance with paragraph (2)) that the practitioner is subject to any proceedings or has committed any act or omission that might render him liable to be referred to the General Council for investigation or consideration of his fitness to practise;
 - (b) an allegation against the practitioner is being investigated in order to decide whether it should be referred to a FTP Panel under the Fitness to Practise Rules; or
 - (c) an allegation against the practitioner has been referred to a FTP Panel under the Fitness to Practise Rules but the hearing before the FTP Panel has not yet commenced,
- the Registrar shall refer the erasure application to be determined by a medical and a lay Case Examiner.
- (5) Upon consideration of an erasure application referred under paragraph (4), the Case Examiners may unanimously—
- (a) grant the application, and notify the Registrar who shall erase the practitioner’s name from the register accordingly; or
 - (b) reject the application.
- (6) If the Case Examiners fail to agree as to the disposal of an erasure application under paragraph (5), the Registrar shall refer the application for determination by the Committee, and the Committee shall determine the application as soon as is reasonably practicable.
- (7) Upon consideration of an erasure application, the Committee may—
- (a) grant the application, and notify the Registrar who shall erase the practitioner’s name from the register accordingly; or
 - (b) reject the application.

(8) Where, on the date the Registrar receives an erasure application, an allegation against the practitioner has been referred to a FTP Panel under the Fitness to Practise Rules and the hearing before the FTP Panel has commenced, the Registrar shall refer the application for determination by the FTP Panel, and the application shall be determined by the FTP Panel accordingly.

(9) The Registrar shall notify the applicant as soon as is reasonably practicable whether his application—

- (a) has been granted and his name has been erased from the register; or
- (b) has not been granted,

together with the reasons for that decision.

Restoration applications

4.—(1) A person whose name has been erased from the register pursuant to an application for voluntary erasure (under these Regulations or any equivalent regulations previously in force) may apply in writing to the Registrar in accordance with this regulation for his name to be restored to the register.

(2) A restoration application shall include the following—

- (a) the applicant's name and former registration number;
- (b) details of the applicant's medical qualifications;
- (c) the address which the applicant wishes to be entered on the register as his registered address;
- (d) the name and address of—
 - (i) any person, body or organisation by whom the applicant is employed to provide medical services, and
 - (ii) any person, body or organisation with whom the applicant has an arrangement to provide medical services;
- (e) where paragraph (d) does not apply, the name and address of the person, body or organisation which most recently employed the practitioner to provide medical services or with whom he most recently had an arrangement to do so.
- (f) the date the applicant's—
 - (i) employment under sub-paragraph (d)(i) commenced,
 - (ii) arrangement under sub-paragraph (d)(ii) commenced, or
 - (iii) most recent employment to provide medical services, or arrangement to do so, terminated;
- (g) a statement by—
 - (i) the applicant,
 - (ii) any person or an officer of any body or organisation named in accordance with sub-paragraph (d) or (e), and
 - (iii) an officer of any regulatory body other than the General Council with which the applicant has been registered within the period of 5 years ending with the date of the restoration application, or such other period as the Registrar may specify,which—
 - (aa) states that the person making it is not aware of any proceedings, 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 Council for investigation or consideration of his fitness to practise, or
 - (bb) gives particulars of any proceedings, act or omission on the part of the practitioner which might render him so liable; and
- (h) the relevant fee under regulation 15A of the Fees Regulations.

(3) On receipt of a restoration application, the Registrar shall, as soon as is reasonably practicable—

- (a) restore the practitioner's name to the register and notify him in writing accordingly;
- (b) refer the application to a medical and a lay Case Examiner under paragraph (4) for consideration in accordance with regulation 5; or
- (c) where the application does not comply with paragraph (2) and unless he refers the application to a medical and a lay Case Examiner under paragraph (4)(a), reject the application.

(4) Where—

- (a) a statement under paragraph (2)(g)(i), (ii) or (iii) is not included with a restoration application but the application otherwise complies with paragraph (2); or
- (b) the Registrar receives information in writing (whether before or after the applicant's name was erased from the register or before or after the restoration application was made and including any information provided in accordance with paragraph (2)) which raises concerns that the applicant's fitness to practise may be impaired,

the Registrar may refer the restoration application for consideration by a medical and a lay Case Examiner in accordance with regulation 5.

Restoration procedure where fitness to practise issues arise

5.—(1) Where the Registrar refers a restoration application to the Case Examiners under regulation 4(4), he shall write to the applicant as soon as is reasonably practicable—

- (a) informing the applicant that his application is to be considered by the Case Examiners;
- (b) enclosing a copy of any information received by him under regulation 4(4)(b); and
- (c) inviting the applicant to make written representations within the period of 28 days from the date of the letter.

(2) The Registrar may carry out any investigations as are in his opinion appropriate to the consideration of the restoration application under paragraph (3).

(3) The Case Examiners—

- (a) shall consider—
 - (i) any representations received from the applicant under paragraph (1), and
 - (ii) any information received under regulation 4(4) or as a result of any investigations carried out under paragraph (2); and
- (b) may unanimously—
 - (i) grant the restoration application and restore the applicant's name to the register,
 - (ii) reject the restoration application, or
 - (iii) refer the matter for consideration by a FTP Panel.

(4) If the Case Examiners fail to agree as to the disposal of a restoration application under paragraph (3), the Registrar shall refer the application for determination by the Committee, and the Committee shall determine the application as soon as is reasonably practicable.

(5) Upon consideration of a restoration application, the Committee may—

- (a) grant the restoration application and restore the applicant's name to the register;
- (b) reject the restoration application; or
- (c) refer the matter for consideration by a FTP Panel.

(6) The Case Examiners or the Committee shall inform the Registrar of their decision.

(7) Where the Case Examiners or the Committee decide to refer a restoration application for consideration by a FTP Panel, the Registrar shall, as soon as reasonably practicable, write to the applicant—

- (a) notifying him of that decision, together with the reasons for it; and
- (b) stating that the application will proceed before a FTP Panel unless he notifies the Registrar in writing within the period of 28 days from the date of the letter that he wishes to withdraw his application.

(8) Where the applicant does not withdraw his application under paragraph (7)(b), a FTP Panel shall consider the application in accordance with rule 24 of Part 6 of the Fitness to Practise Rules.

(9) If a FTP Panel decides to reject a restoration application, then the applicant may not make a further restoration application until the expiry of—

- (a) a period of 12 months from the date of the FTP Panel's decision; or
- (b) such other period as the FTP Panel may specify.

(10) Where the Case Examiners, the Committee or a FTP Panel—

- (a) decide to grant a restoration application, then they shall inform the Registrar who shall, as soon as reasonably practicable, restore the applicant's name to the register and notify him in writing that his name has been restored; or
- (b) decide to reject a restoration application, then they shall inform the Registrar who shall, as soon as reasonably practicable, notify the applicant of—
 - (i) the decision to reject the restoration application,
 - (ii) the reasons for that decision, and
 - (iii) the applicable period under paragraph (9)(a) or (b).

Revocation

6. The General Medical Council (Voluntary Erasure and Restoration following Voluntary Erasure) Regulations 2003(a) are hereby revoked.

(a) Scheduled to S.I. 2003/1341.

Transitional arrangements

7.—(1) An application for voluntary erasure made in accordance with regulation 2 of the General Medical Council (Voluntary Erasure and Restoration following Voluntary Erasure) Regulations 2003 (the “2003 Regulations”) which has not been determined and the decision notified before the date of the coming into force of these Regulations shall be dealt with in accordance with paragraphs (2) to (4).

(2) Subject to paragraph (3), the Registrar shall refer any application falling within paragraph (1) to a medical and a lay Case Examiner for consideration under regulation 3(5) and regulations 3(6) to (9) shall apply accordingly.

(3) In cases falling within regulation 2(6) of the 2003 Regulations—

(a) where the conduct case has been opened under rule 24 of the General Medical Council Preliminary Proceedings Committee and Professional Conduct Committee (Procedure) Rules 1988 and no decision has been taken regarding the application under regulation 2(7)(c) of the 2003 Regulations—

(i) the application shall be referred for determination by a FTP Panel and regulation 3(9) shall apply accordingly, and

(ii) the Registrar shall notify the practitioner of such referral, accordingly; or

(b) where a decision has been taken under regulation 2(7) of the 2003 Regulations—

(i) to approve the application, the Registrar shall erase the practitioner’s name from the register as soon as reasonably practicable and shall notify the practitioner accordingly, or

(ii) to reject the application, the Registrar shall notify the practitioner accordingly.

(4) In relation to cases falling within paragraph (2) or (3), regulation 3 of these Regulations shall apply as if—

(a) in paragraph (5), references to “paragraph (4)” were references to regulation 7(2) of these Regulations; and

(b) references to an “erasure application” were references to an application made in accordance with regulation 2 of the 2003 Regulations.

(5) An application for restoration following voluntary erasure made in accordance with regulation 3 of the 2003 Regulations which has not been determined and the decision notified before the date of the coming into force of these Regulations shall be dealt with in accordance with paragraphs (6) to (9).

(6) Subject to paragraph (7), the Registrar shall deal with any application falling within paragraph (5) in accordance with regulation 4(3) and regulations 4(4) and 5 shall apply accordingly.

(7) In cases falling within regulation 4(1) of the 2003 Regulations—

(a) where the screener has advised the Registrar under regulation 4(5) of the 2003 Regulations that there is no reason why the application should not be approved, the Registrar shall, subject to regulation 15A(2) of the Fees Regulations (fee for restoration to the register following voluntary erasure), restore the practitioner’s name to the register as soon as reasonably practicable and shall notify the practitioner accordingly;

(b) where the screener has advised the Registrar under regulation 4(5) of the 2003 Regulations that there is reason why the application should not be approved, and the application has not been referred to the Professional Conduct Committee, Committee on Professional Performance or Health Committee under regulation 4(8) of the 2003 Regulations, regulations 5(7) to (10) shall apply, save that, where the Registrar has given notice in accordance with regulation 4(7) of the 2003 Regulations, regulation 5(7) shall not apply;

(c) where the application has been referred to the Professional Conduct Committee, Committee on Professional Performance or Health Committee under regulation 4(8) of the 2003 Regulations, the application shall be determined by a FTP Panel in accordance with those regulations; or

(d) where a decision has been taken under regulation 3 or 4 of the 2003 Regulations—

(i) 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 practitioner’s name to the register as soon as reasonably practicable and shall notify the practitioner accordingly, or

(ii) to refuse the application, the Registrar shall notify the practitioner accordingly.

(8) In relation to cases falling within—

(a) paragraphs (6) or (7), these Regulations shall apply as if references to a “restoration application” were references to an application made in accordance with regulation 3 of the 2003 Regulations, and references to an “applicant” were construed accordingly;

(b) paragraph (6), regulation 4 shall apply as if—

(i) in paragraph (3)(c) and (4)(a) and (b), references to “paragraph (2)” were references to regulation 3(2) of the 2003 Regulations, and

(ii) in paragraph (4)(a), reference to “paragraph (2)(g)(i), (ii) or (iii)” was reference to regulation 3(2)(d), (f) or (g) of the 2003 Regulations;

- (c) paragraph (7)(b), regulation 5 shall apply as if—
- (i) in paragraph (7)—
 - (aa) the words “where the screener has advised that there is reason why the application should not be approved” were substituted for the words “where the Case Examiners or the Committee decide to refer a restoration application for consideration by a FTP Panel”; and
 - (bb) the words “that advice” were substituted for the words “that decision”,
 - (ii) in paragraph (8), reference to paragraph (7)(b) includes a reference to regulation 4(8) of the 2003 Regulations, and
 - (iii) in paragraph (10), the words “the Case Examiners, the Committee or” were omitted; and
 - (d) paragraph (7)(c), references in regulation 4(9) to (11) of the 2003 Regulations to “the Committee” and “the Professional Conduct Committee, the Health Committee or the Committee on Professional Performance” were references to a FTP Panel.

(9) Where an application for restoration of a practitioner’s name to the register has been refused under regulation 4(11) of the 2003 Regulations, no application may be made under these Regulations for restoration of the practitioner’s name to the register before the expiry of one year beginning with the date on which the Committee or FTP Panel refused the application or such longer period as may have been determined by the Committee or FTP Panel when refusing the application.

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

Professor Sir 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”) 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 3 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 4 sets out the application process for applications for restoration to the register following voluntary erasure and the procedure to be followed. Regulation 5 sets out the procedure to be followed where fitness to practise issues arise in relation to an application for restoration.

Regulation 6 revokes the earlier Regulations and regulation 7 makes transitional provision in respect of the revocations.

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