STATUTORY INSTRUMENTS

2009 No. 2739

HEALTH CARE AND ASSOCIATED PROFESSIONS

DOCTORS

The General Medical Council (Licence to Practise) Regulations Order of Council 2009

Made - - - -	*12th October 2009*
Laid before Parliament	*16th October 2009*
Coming into force - -	*16th November 2009*

At the Council Chamber, Whitehall the 12th day of October 2009

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

The General Medical Council has made the General Medical Council (Licence to Practise) Regulations 2009, which are set out in the Schedule to this Order, in exercise of the powers conferred by sections 29A, 29E(1), 29J(3) and 41(7) of the Medical Act 1983(**a**).

By virtue of section 29J(4) of that Act, such Regulations shall not have effect until approved by order of the Privy Council.

Their Lordships, having taken these Regulations into consideration, are pleased to and do approve them.

This Order may be cited as the General Medical Council (Licence to Practise) Regulations Order of Council 2009 and comes into force on 16th November 2009.

Judith Simpson
Clerk of the Privy Council

(**a**) 1983, c. 54. Sections 29A29E and 29J were inserted by SI 2002/3135, article 10, and section 41 was substituted by article 13 of that statutory instrument. Section 29A has since been amended by SI 2006/1914, article 3, and section 29J was amended by SI 2008/3131, article 16. Section 41 was amended by SI 2006/1914, articles 40 and 50. See also, in relation to the use of powers under section 29A, sections 29B(1), (2) and (3) and 29D. Sections 29B and 29D were inserted by SI 2002/3135, article 10, and section 29B was amended by SI 2006/1914, article 7. Section 29D was amended by SI 2008/3131, Schedule 1, paragraph 11.

SCHEDULE

The General Medical Council (Licence to Practise) Regulations 2009

ARRANGEMENT OF REGULATIONS

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The General Medical Council, in exercise of their powers under sections 29A, 29E(1), 29J(3) and 41(7) of the Medical Act 1983 and after consulting with such bodies or persons representing medical practitioners, and such medical practitioners, as appeared to the General Medical Council requisite to be consulted, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the General Medical Council (Licence to Practise) Regulations 2009 and except as provided for in paragraph (2) shall come into force on 16 November 2009.

(2) References in regulations 2(1), 2(7)(c), 3(1)(b) and 4(6)(d) to a practitioner having in force an adequate and appropriate indemnity arrangement as required by section 44C(**a**) (Indemnity arrangements) shall have no effect until such time as that section comes into force.

(3) In these Regulations—

"the Act" means the Medical Act 1983;

"the GMC reference number" means, in relation to any individual medical practitioner, the number allocated and notified as such to that practitioner by the Registrar;

"licence" means a licence to practise; and

"registered practitioner" means a person registered under any provision of the Act.

(4) In these Regulations references to numbered Parts, sections and sub-sections are references to so numbered Parts, sections and sub-sections of the Act.

Grant or refusal of a licence

2.—(1) The Registrar shall grant a licence to—

(a) each medical practitioner registered under the Act at the time of the coming into force of these Regulations, except that the Registrar need not grant a licence where any such practitioner so requests before the coming into force of these Regulations;

(b) a medical practitioner upon registration under the Act whether such registration is full or provisional, or by virtue of section 18(**b**) (visiting medical practitioners from relevant European States), 18A(**c**) (temporary registration with regard to emergencies), 27A(**d**) (temporary registration for visiting eminent specialists) or 27B(**e**) (special purpose registration);

(**a**) Section 44C was inserted by SI 2006/1914, article 69, but that article is not yet in force.
(**b**) Section 18 was substituted by SI 2007/3101, regulation 12.
(**c**) Section 18A was inserted by SI 2008/1774, Schedule 1, paragraph 10.
(**d**) Section 27A was inserted by SI 2006/1914, article 37.
(**e**) Section 27B was inserted by SI 2006/1914, article 37.

(c) a medical practitioner whose name has been erased from the register pursuant to sub-section (5) of section 30(**a**) (the registers), or to regulations made under section 31A(**b**) (voluntary removal from the register) or sub-section (2) of section 32(**c**) (registration fees), upon restoration of the practitioner's name to the register pursuant to regulations made under section 31A or sub-section (8) of section 31(**d**) (power to make regulations with respect to the registers), unless such practitioner requests otherwise;

(d) a medical practitioner whose name has been erased pursuant to section 35D(**e**) (functions of a Fitness to Practise Panel) before the coming into force of these Regulations, upon restoration of the practitioner's name to the register pursuant to section 41(**f**) (restoration of names to the register), unless such practitioner requests otherwise; and

(e) a medical practitioner whose registration has been suspended under Part V before the coming into force of these Regulations, upon the date that period of suspension, including any extension of that period of suspension or any period of suspension ordered to take effect immediately thereafter, comes to an end, unless such practitioner requests otherwise,

provided the Registrar is satisfied that the medical practitioner will have in force an adequate and appropriate indemnity arrangement as required by section 44C.

(2) A registered practitioner who does not hold a licence may make an application in writing to the Registrar for a licence.

(3) Subject to paragraphs (4) and (5), the Registrar shall, on receipt of an application under paragraph (2)—

(a) grant the application; or

(b) refuse the application.

(4) Where it appears to the Registrar that the fitness to practise of a practitioner who has made an application under paragraph (2) may be impaired, the Registrar may refer the matter for investigation under section 35C(**g**) (functions of the Investigation Committee).

(5) Where an application has been referred for investigation under paragraph (4), the Registrar may decide to take no further action in relation to the application until the matter is subsequently referred back to the Registrar following investigation or after consideration by an Interim Orders Panel or a Fitness to Practise Panel.

(6) An application made under paragraph (2) shall include—

(a) the practitioner's name, date of birth and GMC reference number;

(b) the practitioner's registered address or an address to which the Registrar is able to send to the practitioner written communications relating to the application;

(c) confirmation that the practitioner has not since the time of the coming into force of these Regulations provided medical services for which a licence is required;

(d) 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;

(**a**) Section 30(5) was amended by SI 2006/1914, article 8.
(**b**) Section 31A was inserted by the Medical (Professional Performance) Act 1995 (c. 51), section 2, and amended by SI 2002/3135, article 12.
(**c**) Section 32(2) was amended by the Medical (Professional Performance) Act 1995, paragraph 3 of the Schedule.
(**d**) Section 31(8) was amended by SI 2002/3135, article 7, and SI 2006/1914, article 9.
(**e**) Section 35D was inserted by SI 2002/3135, article 13.
(**f**) Section 41 was inserted by SI 2002/3135, article 13, and amended by SI 2006/1914, articles 40 and 50.
(**g**) Section 35C was inserted by SI 2002/3135, article 13, and amended by SI 2006/1914, article 13.

(e) where sub-paragraph (d) does not apply, the name and address of the person, body or organisation that most recently employed the practitioner to provide medical services or with whom the practitioner most recently had an arrangement to do so;

(f) the date the practitioner'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 practitioner;

(ii) any person or an officer of any body or organisation named in accordance with sub-paragraph (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 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 practitioner which might render the practitioner liable to be referred to the General Council for investigation or consideration of the practitioner's fitness to practise, or

(bb) gives particulars of any proceedings, act or omission on the part of the practitioner which might render the practitioner so liable.

(7) In considering whether to grant or refuse an application made under paragraph (2), the Registrar shall take into account any—

(a) failure by the practitioner to comply with the requirements of paragraph (6);

(b) failure by the practitioner to provide any further evidence or information required by the Registrar in connection with that application; and

(c) failure by the practitioner to ensure there will be in force an adequate and appropriate indemnity arrangement required by section 44C.

(8) The Registrar may carry out such investigations as are in the opinion of the Registrar appropriate to the consideration of an application.

Withdrawal of a licence

3.—(1) The licence of a registered medical practitioner shall be withdrawn by the Registrar—

(a) where the practitioner requests withdrawal of that licence; or

(b) where it is established to the satisfaction of the Registrar that—

(i) the licence was fraudulently procured or otherwise incorrectly granted; or

(ii) the practitioner has failed to have in force an adequate and appropriate indemnity arrangement as required by section 44C.

(2) The licence of a registered medical practitioner may be withdrawn by the Registrar where it is established to the satisfaction of the Registrar that the practitioner has failed to comply with any requirement made of that practitioner under these Regulations.

(3) The licence of a registered medical practitioner shall not be withdrawn under paragraph (1)(b)(ii) or (2) without the Registrar having first given the practitioner notice—

(a) stating that the Registrar is minded to withdraw the licence and on what grounds; and

(b) inviting the practitioner to make written representations to be received by the Registrar no later than 28 days from the date of the notice.

(4) Where—

(a) a registered medical practitioner's name is erased from the register pursuant to—

(i) sub-sections (4) or (5) of section 30(**a**) (the registers),

(ii) section 39(**b**) (fraud or error in relation to registration),

(iii) sub-section (3) of section 44(**c**) (effect of disqualification in another relevant European State on registration in the United Kingdom),

(iv) sub-sections (1) or (4) of section 44B(**d**) (provision of information in respect of fitness to practise matters), or

(v) regulations made under section 31A (voluntary removal from the register) or 32(2) (registration fees);

(b) a registered medical practitioner's registration is suspended or name is removed from the list of visiting medical practitioners from relevant European States; or

(c) a registered medical practitioner's registration under section 18A (temporary registration with regard to emergencies involving loss of human life or human illness etc.) is revoked or under section 27A (temporary registration for visiting eminent specialists) or 27B (special purpose registration) expires,

the practitioner's licence shall be withdrawn with effect from the date when such erasure, suspension, removal, revocation or expiry takes effect.

Restoration of a licence after withdrawal

4.—(1) Following withdrawal of a registered practitioner's licence under regulation 3(1) or (2), that practitioner may make application in writing to the Registrar for the licence to be restored and, subject to paragraphs (2) and (3), the Registrar shall—

(a) grant the application; or

(b) refuse the application.

(2) Where it appears to the Registrar that the fitness to practise of a practitioner who has made an application under paragraph (1) may be impaired, the Registrar may refer the matter for investigation under section 35C (functions of the Investigation Committee).

(3) Where an application has been referred for investigation under paragraph (2), the Registrar may decide to take no further action in relation to the application until the matter is subsequently referred back to the Registrar following investigation or after consideration by an Interim Orders Panel or a Fitness to Practise Panel.

(4) An application made under paragraph (1) shall include—

(a) the practitioner's name, date of birth and GMC reference number;

(b) the practitioner's registered address or an address to which the Registrar is able to send to the practitioner written communications relating to the application;

(c) confirmation that the practitioner has not since the time that the licence was withdrawn provided medical services for which a licence is required;

(d) 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;

(**a**) Sub-sections (4) and (5) of section 30 were amended by SI 2006/1914, articles 8 and 29.
(**b**) Section 39 was substituted by SI 2006/1914, article 60.
(**c**) Section 44 was substituted by SI 2002/3135, article 13. Sub-section (3) was amended by SI 2007/3101, regulation 22.
(**d**) Section 44B was inserted by SI 2006/1914, article 51. Sub-section (1) was amended by SI 2007/3101, regulation 23.

(e) where paragraph (d) does not apply, the name and address of the person, body or organisation that most recently employed the practitioner to provide medical services or with whom the practitioner most recently had an arrangement to do so;

(f) the date the practitioner'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 practitioner;

(ii) any person or an officer of any body or organisation named in accordance with sub-paragraph (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 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 practitioner which might render that practitioner liable to be referred to the General Council for investigation for consideration of the practitioner's fitness to practise, or

(bb) gives particulars of any proceedings, act or omission on the part of the practitioner which might render the practitioner so liable.

(5) The Registrar may carry out such investigations as are in the Registrar's opinion appropriate to the consideration of the restoration application.

(6) In considering whether to grant or refuse an application made under paragraph (1), the Registrar shall take into account any—

(a) failure by the practitioner to comply with the requirements of paragraph (4);

(b) failure by the practitioner to provide any further evidence or information required by the Registrar in connection with the application for restoration;

(c) failure by the practitioner to pay any fee payable in connection with the application for restoration; and

(d) failure by the practitioner to have in force an adequate and appropriate indemnity arrangement as required by section 44C.

(7) Where a practitioner's licence has been withdrawn under regulation 3(4), unless the practitioner requests otherwise, the licence shall be restored automatically on the practitioner's restoration to the register pursuant to regulations made under 31A (voluntary removal from the register) or sub-section (8) of section 31 (power to make regulations with respect to the registers), or on the lifting of the practitioner's suspension from the list of visiting medical practitioners from relevant European States.

Referral to a Registration Panel

5. The Registrar may at any time refer any question or matter arising during the course of consideration of the grant, withdrawal or restoration of a medical practitioner's licence to a Registration Panel for such panel's advice, and shall take any such advice into account.

Restoration for the purposes of section 41(7)

6. Where a Fitness to Practise Panel decides to direct that a person's name be restored to the register under sub-section (1) of section 41(**a**) (restoration of names to the register), it shall direct the Registrar to restore the person's licence where such licence was withdrawn under section 41C(1)(a)(**b**) at the time the person's name was erased from the register.

Given under the official seal of the General Medical Council this 10th day of September 2009



Peter Rubin
Chair

Finlay Scott
Chief Executive and Registrar

EXPLANATORY NOTE

(This note is not part of the Order)

This Order approves the Regulations made by the General Medical Council on 10th September 2009 under their powers under the Medical Act 1983 ("the Act") in relation to the licensing of medical practitioners. The Regulations come into force on 16th November 2009, with exceptions described in regulation 1(2). (These exceptions relate to the requirements in the Act for medical practitioners to have adequate and appropriate indemnity arrangements, as those provisions are not yet in force.)

Regulation 2 makes provision for the grant or refusal of a licence. Medical practitioners whose names appear on the register will automatically be granted a licence unless they have informed the Registrar otherwise before the coming into force of these Regulations, and those practitioners who are registered after that date will automatically be granted a licence. Provision is also made for the grant of a licence to practitioners whose registration is not current at the date of coming into force, but which is restored after that date; and for any doctor holding registration without a licence to apply for one in accordance with the administrative provisions set out in the regulation.

Regulation 3 provides for the withdrawal of a licence where the medical practitioner so requests, and where the Registrar is satisfied that it was fraudulently or otherwise incorrectly obtained. It also provides for withdrawal of a licence in cases of administrative breach in connection with the licensing requirements, and in cases where the practitioner's registration is suspended or comes to an end other than upon a determination by a Fitness to Practise Panel or the imposition of an interim Order by an Interim Orders Panel. It sets out procedural requirements which apply in certain cases before the licence can be withdrawn.

Regulation 4 provides for the restoration of a licence after withdrawal under regulation 3(1) or (2), setting out a procedure. Under regulation 4(2), where the Registrar considers the fitness to practise of a practitioner applying for restoration of a licence may be impaired, the question may be referred for investigation. In that case, regulation 4(3) provides that the Registrar may decide not to take further action in relation to the application pending the matter's being referred back to the Registrar or considered by an Interim Orders Panel or a Fitness to Practise Panel.

(**a**) Section 41 was inserted by SI 2002/3135, article 13. Sub-section (1) was amended by SI 2006/1914, article 50.
(**b**) Section 41C was inserted by SI 2002/3135, article 13.

Regulation 5 gives the Registrar power to refer to a Registration Panel any question arising in relation to the grant, withdrawal or restoration of a licence, and to take the Panel's advice into account in reaching any decision.

Regulation 6 provides for the restoration of a licence for the purposes of section 41(7) following the determination of a Fitness to Practise Panel that a practitioner's name should be restored to the register.

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