

2005 No. 400

**HEALTH CARE AND ASSOCIATED PROFESSIONS
DOCTORS**

**The General Medical Council (Registration Appeals Panels
Procedure) Rules Order of Council 2005**

Made - - - - - 2nd February 2005

Laid before Parliament 1st March 2005

Coming into force - - 1st April 2005

At the Council Chamber, Whitehall, the 2nd day of February 2005

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

Whereas, in exercise of their powers under paragraph 3(1) of Schedule 3B 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 (Registration Appeals Panels Procedure) Rules 2005 as set out in the Schedule to this Order:

And whereas by paragraph 3(5) 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.

This Order may be cited as the General Medical Council (Registration Appeals Panels Procedure) Rules Order of Council 2005, and shall come into force on 1st April 2005.

A. K. Galloway
Clerk of the Privy Council

^(a) 1983 c. 54; paragraph 3 was inserted into the Act by article 11 of S.I. 2002/3135.

SCHEDULE

THE GENERAL MEDICAL COUNCIL (REGISTRATION APPEALS PANELS PROCEDURE) RULES 2005

The General Medical Council, in exercise of its powers under paragraph 3(1) of Schedule 3B to the Medical Act 1983(a) and of all other powers enabling it in that behalf, and having consulted such bodies of persons representing medical practitioners, or medical practitioners of any description, as appeared to it requisite to be consulted pursuant to paragraph 3(8) of Schedule 3B to that Act, hereby makes the following Rules:—

Arrangement of Rules

1. Citation and commencement
2. Interpretation
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Citation and commencement

1. These Rules may be cited as the General Medical Council (Registration Appeals Panels Procedure) Rules 2005, and shall come into force on 1st April 2005.

Interpretation

2. In these Rules—

“the Act” means the Medical Act 1983;

“appealable decision” means an appealable registration decision under paragraph 2 of Schedule 3A to the Act (registration appeals)(b) or a decision of a licensing authority under section 29F(1) of the Act (appeals)(c);

“appeal” means an appeal against an appealable decision, and references to “the appellant” shall be construed accordingly;

“legal assessor” means a person appointed under paragraph 7 of Schedule 4 to the Act(d);

“Panel” means a Registration Appeals Panel constituted under rules made under paragraph 19C of Schedule 1 to the Act (registration appeals panels)(e);

“party” means the practitioner or the General Council (or their representatives), and references to “the parties” shall be construed accordingly;

“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 Panel, and may include solicitor or counsel;

“registration number” means the unique identification number recorded against a registered medical practitioner’s name in the relevant register kept by the Registrar under section 2 of the Act; and

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

(a) 1983 c. 54, Schedule 3B was inserted by S.I. 2002/3135 (“the 2002 Order”).

(b) Schedule 3A was inserted by article 8 of the 2002 Order.

(c) Section 29F(1) was inserted by article 10 of the 2002 Order.

(d) Schedule 4 was substituted by article 14 of the 2002 Order.

(e) Paragraph 19C as inserted by article 5 of the 2002 Order.

Notice of hearing

- 3.—(1) The Registrar shall serve a notice of hearing on the appellant—
- (a) as soon as reasonably practicable following receipt of a notice of appeal under paragraph 4(2) of Schedule 3A to the Act (appeals from appealable registration decisions) or paragraph 1 of Schedule 3B to the Act (manner of, and time for, appealing); and
 - (b) no less than 28 days before the date of the hearing.
- (2) The notice of hearing shall—
- (a) specify the date, time and venue of the hearing;
 - (b) inform the appellant of his right to attend the hearing and to be represented at it in accordance with rule 8;
 - (c) inform the appellant of the power of the Panel to proceed in his absence under rule 9;
 - (d) inform the appellant of his right to adduce evidence in accordance with rule 10; and
 - (e) inform the appellant of the Panel's powers of disposal under paragraph 4(8) of Schedule 3A to the Act or paragraph 5 of Schedule 3B to the Act (powers of Registration Appeals Panels disposing of an appeal), as appropriate.
- (3) Following service of a notice of hearing under this Rule, the Registrar may, provided that he gives the appellant no less than 7 days' notice, alter the precise time and venue of the hearing.

Documents

4. Before the hearing, the Registrar shall provide the Panel with copies of—
- (a) the appealable decision;
 - (b) any documents and advice considered by the person making the appealable decision; and
 - (c) where a hearing was held before a Registration Decisions Panel, a copy of any transcript or note taken of those proceedings.

Procedure at the hearing

5. The order of proceedings at the hearing shall be as follows—
- (a) the Panel shall hear and consider any preliminary legal arguments;
 - (b) the Chairman of the Panel shall—
 - (i) where the appellant is present, require him to confirm his name and, where appropriate, his registration number, or
 - (ii) otherwise, require the Presenting Officer to confirm the appellant's name and, where appropriate, the appellant's registration number;
 - (c) the Presenting Officer shall—
 - (i) address the Panel regarding the background to the appeal, and
 - (ii) direct the attention of the Panel to any relevant evidence, including any transcripts of previous hearings relating to the decision that is subject to appeal;
 - (d) the appellant may address the Panel on the grounds and reasons for his appeal;
 - (e) where the Panel decides to receive oral evidence, witnesses shall be required to take an oath or to affirm, and—
 - (i) shall first be examined by the party calling them,
 - (ii) may then be cross-examined by the opposing party,
 - (iii) may then be re-examined by the party calling them, and
 - (iv) may at any time be questioned by the Panel;
 - (f) the Panel may receive further evidence and hear any further submissions from the parties; and
 - (g) the Panel shall then consider and announce its decision on the appeal and shall give reasons for its decision.

Cost orders

- 6.—(1) The Panel may, of its own motion or upon the application of a party to the proceedings—
- (a) order that a party should pay all of the other party's reasonable costs of the appeal, or such part of the other party's reasonable costs of the appeal as may be specified in the order;
 - (b) determine the amount of costs to be paid under such order; and
 - (c) determine the period within which any such costs must be paid.
- (2) Unless it is unable to do so in the particular circumstances of the case, each party shall, no less than 24 hours before the hearing, serve upon the other party a schedule particularising its costs of the appeal.

- (3) When determining whether to make an order for costs, the Panel shall take into account—
- (a) any evidence adduced or submissions made by the parties in relation to the matters for consideration under paragraph (1); and
 - (b) any schedule of costs served in accordance with paragraph (2).
- (4) The Panel shall consider and announce any decision it makes in relation to an order for costs under this rule, and shall give reasons for its decision.

Adjournment

7. The Panel may at any time, whether of its own motion or upon the application of a party, adjourn the proceedings until such time and date as it thinks fit.

Representation

- 8.—(1) At a hearing, the appellant may be represented by—
- (a) a solicitor or counsel;
 - (b) a representative from any professional organisation of which he is a member; or
 - (c) at the discretion of the Panel, a member of his family or other person.
- (2) A person who gives evidence at a hearing shall not be entitled to represent or accompany the appellant at that hearing.

Absence of the appellant

9. Where the appellant is neither present nor represented at a hearing, the Panel may nevertheless proceed to consider and determine the appeal if it is satisfied that all reasonable efforts have been made to serve the appellant with notice of the hearing in accordance with these Rules.

Evidence

- 10.—(1) Subject to paragraphs (2) and (3), the Panel may admit any evidence they consider fair and relevant to the case before them, whether or not such evidence would be admissible in a court of law.
- (2) Where evidence would not be admissible in criminal proceedings in England, the Panel shall not admit such evidence unless, on the advice of the legal assessor, they are satisfied that their duty of making due inquiry into the case before them makes its admission desirable.
- (3) No person shall give oral evidence at the hearing unless the Panel considers such evidence is desirable to enable it to discharge its functions.
- (4) Production of a certificate purporting to be under the hand of a competent officer of a Court in the United Kingdom or overseas that a person has been convicted of a criminal offence or, in Scotland, an extract conviction, shall be conclusive evidence of the offence committed.
- (5) Production of a certificate signed by an officer of a regulatory body that has made a determination about the fitness to practise of a person shall be conclusive evidence of the facts found proved in relation to that determination.
- (6) The only evidence which may be adduced by the appellant in rebuttal of a conviction or determination certified in the manner specified in paragraph (4) or (5) is evidence for the purposes of proving that he is not the person referred to in the certificate or extract.
- (7) The appellant may admit a fact or description of a fact, and a fact or description of a fact so admitted may be treated as proved.
- (8) A copy of a document of which the original is admissible may be received by the Panel without strict proof.

Public and private hearings

- 11.—(1) The Panel shall sit in private, unless an appellant requests it to sit in public.
- (2) The Panel shall deliberate in the absence of the parties.
- (3) Where a Panel sits in public it may, of its own volition or upon the application of a witness or any of the parties, exclude the public for any part of the proceedings provided that it is satisfied that—
- (a) a decision to exclude the public causes no prejudice to the appellant; and
 - (b) the decision is made after hearing representations from the parties.
- (4) The Panel may exclude from the whole or part of any hearing, any person whose conduct, in its opinion, has disrupted or is likely to disrupt the proceedings.

Voting

- 12.—(1) Decisions of the Panel shall be taken by simple majority.
- (2) The Chairman of the Panel shall not have a casting vote.
- (3) No member of the Panel may abstain from voting.
- (4) Where the votes are equal, the Panel shall decide the issue against the appellant.

Service

- 13.—(1) Any notice required to be given to the appellant in these Rules shall be served in accordance with paragraph 6 of Schedule 3A to the Act (notices).
- (2) If the appellant is represented by a solicitor, any such notice shall also be served at the solicitor's practising address.
- (3) The service of any notice under these Rules may be proved by—
 - (a) a confirmation of posting issued by or on behalf of the Post Office, or other postal operator or delivery service; or
 - (b) a signed statement from any person serving the notice by hand.

Given under the official seal of the General Medical Council this 25th day of January 2005



Graeme Catto
President

EXPLANATORY NOTE

(This note is not part of the Order)

The Rules approved by this Order provide for the procedure to be followed by a Registration Appeals Panel (“the Panel”) when determining an appeal by a person against the decisions specified in Schedule 3A to the Medical Act 1983 (decisions relating to the registration of a medical practitioner), or a decision of a licensing authority under section 29F(1) of that Act (decisions relating to licence to practise as a medical practitioner).

The Rules make provision in respect of—

- (a) serving notice of the hearing of the appeal on the appellant (rule 3);
- (b) the documents to be provided to the Panel prior to a hearing (rule 4);
- (c) the procedure to be followed at a hearing before the Panel (rule 5);
- (d) costs orders (rule 6);
- (e) adjournment of the hearing (rule 7);
- (f) who may represent the appellant at a hearing (rule 8);
- (g) how the Panel should proceed if the appellant is not represented or present at the hearing (rule 9);
- (h) evidence before the Panel (rule 10);
- (i) whether the hearing should be held in public or in private (rule 11);
- (j) the voting procedures of the Panel in reaching a decision on the appeal (rule 12); and
- (k) the requirements for serving notices under the Rules (rule 13).

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