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STATUTORY INSTRUMENTS

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**2012 No. 3171**

**HEALTH CARE AND  
ASSOCIATED PROFESSIONS  
PHARMACY**

**The General Pharmaceutical Council (Amendment of  
Miscellaneous Provisions) Rules Order of Council 2012**

<i>Made</i>	- - - -	<i>20th December 2012</i>
<i>Laid before Parliament</i>		<i>7th January 2013</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>7th January 2013</i>
<i>Coming into force</i>	- -	<i>5th February 2013</i>

At the Council Chamber, Whitehall, the 20th day of December 2012  
By the Lords of Her Majesty's Most Honourable Privy Council

The General Pharmaceutical Council<sup>(1)</sup> has made the General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules 2012 which are set out in the Schedule to this Order, in exercise of the powers conferred by articles 18(2), 23(1)(a) and (c), 61(1) and (2)(c), 63(4) and 66(1) of, and paragraph 5 of Schedule 1 to, the Pharmacy Order 2010.

In accordance with article 66(3) of that Order, the General Pharmaceutical Council has, in relation to rules under Parts 4 to 7 of that Order, consulted such persons and organisations as it considered appropriate including the persons and organisations listed in sub-paragraphs (a) to (h) of article 66(3) of that Order.

By virtue of article 66(4) of that Order, such rules cannot come into force until approved by order of the Privy Council.

**Citation and commencement**

**1.** This Order may be cited as the General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012 and comes into force on 5th February 2013.

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<sup>(1)</sup> The Council was established by article 4 of the Pharmacy Order 2010 ([S.I. 2010/231](#)).

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### **Council approval**

2. Their Lordships, having taken the Rules contained in the Schedule into consideration, are pleased to and do approve them.

*Richard Tilbrook*  
Clerk of the Privy Council

## SCHEDULE

Article 2

### The General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules 2012

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Explanatory Note

The General Pharmaceutical Council makes these Rules in exercise of the powers conferred by articles 18(2), 23(1)(a) and (c), 61(1) and (2)(c), 63(4) and 66(1) of, and paragraph 5 of Schedule 1 to, the Pharmacy Order 2010.

In accordance with article 66(3) of that Order, the General Pharmaceutical Council has, in relation to rules under Parts 4 to 7 of that Order, consulted such persons and organisations as it considered appropriate including the persons and organisations listed in sub-paragraphs (a) to (h) of article 66(3) of that Order.

## PART 1

### General

#### Citation

1. These Rules may be cited as the General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules 2012.

#### Commencement

2. These Rules come into force on 5th February 2013.

## PART 2

### Amendment of the General Pharmaceutical Council (Statutory Committees and their Advisers) Rules 2010

#### Interpretation of this Part

3. In this Part “the Statutory Committees and their Advisers Rules” means the General Pharmaceutical Council (Statutory Committees and their Advisers) Rules 2010(2).

#### Composition of the statutory committees

- 4.—(1) Rule 3 of the Statutory Committees and their Advisers Rules (composition of the statutory committees) is amended as follows.

(2) In paragraph (1)—

- (a) insert “and” at the end of sub-paragraph (b);
- (b) for sub-paragraph (c) substitute—

“(c) not fewer than three and not more than eleven other members who may be lay members or registrant members.”; and

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(2) Scheduled to [S.I. 2010/1616](#).

- (c) omit sub-paragraph (d).
- (3) In paragraph (2)—
  - (a) for sub-paragraph (b) substitute—
    - “(b) not fewer than three and not more than eight lay members who are deputy chairs; and”;
  - (b) for sub-paragraph (c) substitute—
    - “(c) not fewer than eight and not more than fifty one other members who may be lay members or registrant members.”; and
  - (c) omit sub-paragraph (d).
- (4) In paragraph (3)—
  - (a) insert “and” at the end of sub-paragraph (b);
  - (b) for sub-paragraph (c) substitute—
    - “(c) not fewer than three and not more than seventeen other members who may be lay members or registrant members.”; and
  - (c) omit sub-paragraph (d).
- (5) After paragraph (3) insert—
  - “(3A) The number of lay members of each committee (including any chair or deputy chair) must be at least the same as the number of registrant members.”.

#### **Additional functions of the Investigating Committee**

**5.**—(1) Rule 4 of the Statutory Committees and their Advisers Rules (additional functions of the Investigating Committee) is amended as follows.

- (2) In paragraph (1)—
  - (a) omit sub-paragraph (a);
  - (b) for sub-paragraph (b) substitute—
    - “(b) providing advice to the Council about the content of any guidance to be issued by the Council about the circumstances in which allegations that have been referred to the Investigating Committee should be referred to the Fitness to Practise Committee;”;
  - (c) for sub-paragraph (e) substitute—
    - “(e) determining whether to notify the Registrar that the Council should consider exercising any of its powers to bring criminal proceedings in relation to—
      - (i) criminal conduct allegations, and
      - (ii) cases that have been referred to it as disqualification allegations.”.
- (3) Omit paragraph (2).

#### **Additional functions of the Fitness to Practise Committee**

**6.** In rule 5 of the Statutory Committees and their Advisers Rules (additional functions of the Fitness to Practise Committee)(3)—

- (a) for paragraph (b) substitute—

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(3) Rule 5 is amended by [S.I. 2011/1367](#).

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- “(b) providing advice to the Council about the content of the guidance referred to in rule 4(1)(b);”;
- and
- (b) for paragraph (d) substitute—
  - “(d) providing advice to the Council about the content of any guidance to be issued by the Council about sanctions that particular classes of cases before the Fitness to Practise Committee should attract.”.

### **Appointments Committee**

- 7. In rule 6 of the Statutory Committees and their Advisers Rules (Appointments Committee)—
  - (a) renumber the existing provision as paragraph (1); and
  - (b) after that paragraph insert—
    - “(2) In exercising the functions under paragraph (1)(a), the Appointments Committee must ensure that the requirements of rule 3 as to the size and composition of each statutory committee are met.”.

### **Eligibility for appointment to more than one statutory committee**

- 8.—(1) Rule 8 of the Statutory Committees and their Advisers Rules (eligibility of employees of the Council and other persons for appointment to statutory committees) is amended as follows.
  - (2) For paragraph (2) substitute—
    - “(2) A person may not be appointed to be at the same time—
      - (a) a member of the Investigating Committee; and
      - (b) a member of another statutory committee.”.
  - (3) In paragraph (3)(f), for “formal caution” substitute “caution”.

### **Roles in setting of required competencies for members of statutory committees**

- 9. In rule 9 of the Statutory Committees and their Advisers Rules (required competencies for members of statutory committees), omit paragraphs (1) and (3).

### **Period of membership of a statutory committee**

- 10. For rule 11 of the Statutory Committees and their Advisers Rules substitute—

#### **“Period of membership of a statutory committee**

- 11. No person—
  - (a) may be appointed as a member of a particular statutory committee (including a chair or deputy chair) for a term of office that is longer than four years;
  - (b) may serve as a member of the same committee for more than a total of eight years in any twenty year period.”.

### **Reserve list**

- 11.—(1) Rule 13 of the Statutory Committees and their Advisers Rules (reserve list) is amended as follows.
  - (2) For paragraph (1) substitute—

“(1) The Appointments Committee must maintain a reserve list of persons who are eligible to serve as a member of one or more statutory committees.”.

(3) After paragraph (1) insert—

“(1A) In relation to any person whose name appears on the reserve list, the Appointments Committee must specify—

- (a) the statutory committee or statutory committees to which appointment may be appropriate;
- (b) whether any appointment would be as a registrant member or as a lay member;
- (c) whether appointment as a chair or deputy chair of the Investigating Committee may be appropriate;
- (d) whether appointment as a deputy chair of the Fitness to Practise Committee may be appropriate; and
- (e) whether appointment as a chair or deputy chair of the Appeals Committee may be appropriate.

(1B) In relation to any person whose name appears on the reserve list, where—

- (a) both the Fitness to Practise Committee and the Appeals Committee are specified as statutory committees to which the person’s appointment may be appropriate; and
- (b) the person is appointed to one of those committees,

the person’s name may be retained on the reserve list for the purpose of appointment to the other committee.”.

(4) For paragraph (3) substitute—

“(3) Persons on the reserve list may be appointed to fill a vacancy that arises on a statutory committee only if—

- (a) the matters specified in the reserve list under paragraph (1A) in respect of that person show that the person is suitable for the vacancy; and
- (b) the Appointments Committee considers that it would be appropriate to make the appointment.”.

(5) Omit paragraphs (4) and (5).

(6) For paragraph (7) substitute—

“(7) Where a member of a statutory committee other than the chair is unable to sit to consider a case for any reason, the chair of the committee may co-opt a person whose name appears on the reserve list to serve as a member of the committee (including as a deputy chair) for that particular case if—

- (a) that committee is specified as a statutory committee to which the person’s appointment may be appropriate; and
- (b) the chair considers that it would be appropriate for the person to serve as a member of the committee.”.

(7) After paragraph (7) insert—

“(8) A person may not be co-opted under paragraph (7) to be at the same time—

- (a) a member of the Investigating Committee; and
- (b) a member of another statutory committee.”.

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### **Suspension and removal of statutory committee members and persons on the reserve list**

**12.**—(1) Rule 14 of the Statutory Committees and their Advisers Rules (suspension and removal of statutory committee members and persons on the reserve list) is amended as follows.

(2) In paragraph (1)—

(a) in sub-paragraph (a), for “a statutory committee” substitute “the statutory committee in question”;

(b) in sub-paragraph (b), after “term of office” insert “for the statutory committee in question”; and

(c) in sub-paragraph (d)—

(i) in paragraphs (i), (ii) and (vii), for “a statutory committee” substitute “the statutory committee in question”; and

(ii) in paragraph (iv), for “a statutory committee” substitute “any statutory committee”.

(3) For paragraph (5) substitute—

“(5) The Council must determine the procedure for—

(a) the suspension or removal of a member of a statutory committee; and

(b) the removal of a person from the reserve list,

and must prepare and issue a statement of that procedure to each committee member and person on the reserve list.”.

### **Power to co-opt members of statutory committees**

**13.**—(1) Rule 16 of the Statutory Committees and their Advisers Rules (power to co-opt members of statutory committees) is amended as follows.

(2) In paragraph (1), for “paragraphs (3) and (4)” substitute “paragraphs (3) to (4)”.

(3) After paragraph (3) insert—

“(3A) A person may not be co-opted under paragraph (1) to be at the same time—

(a) a member of the Investigating Committee; and

(b) a member of another statutory committee.”.

(4) In paragraph (4)—

(a) after “The following” insert “other”; and

(b) omit sub-paragraph (b).

### **Secretaries of statutory committees**

**14.** In rule 17 of the Statutory Committees and their Advisers Rules (secretaries of statutory committees), for paragraph (3) substitute—

“(3) A person who acts as secretary to the Investigating Committee in relation to a fitness to practise allegation must not act as secretary to the Fitness to Practise Committee in any proceedings before the Fitness to Practise Committee in connection with that allegation.”.

### **Composition of statutory committees: general**

**15.** For rule 18 of the Statutory Committees and their Advisers Rules substitute—



**“Composition of statutory committees: general**

**18.**—(1) Subject to any determination made under rule 18A(or 18B(1) in respect of any particular meeting or hearing, the quorum for a meeting (other than a case management meeting) or a hearing of a statutory committee is three members.

(2) The members must include—

- (a) the chair or a deputy chair;
- (b) a lay member; and
- (c) a registrant member.

(3) At any meeting or hearing of a statutory committee, the number of registrant members considering a case must not exceed the number of lay members (including any chair or deputy chair) by more than one.

(4) Case management meetings of the statutory committees are to be conducted by the chair of the statutory committee which is holding the case management meeting.”.

**Composition of Fitness to Practise and Appeals Committees: further provision**

**16.** After rule 18 of the Statutory Committees and their Advisers Rules insert—

**“Composition of Fitness to Practise Committee: further provision**

**18A.**—(1) The chair of the Fitness to Practise Committee may, having consulted the secretary of the Committee, and with regard to—

- (a) the matters to be considered by the Committee; and
- (b) the availability, experience and expertise of Committee members,

determine the particular size, composition and quorum of the Committee required for each hearing and any related meeting (other than any case management meeting).

(2) Where the chair determines that only specified members of the Committee are required for a particular hearing and any related meeting, the chair must ensure that—

- (a) the chair or a deputy chair is one of those members;
- (b) the quorum is not less than three;
- (c) the number of registrant members who are members of that formation of the Committee does not exceed the number of lay members (including any chair or deputy chair) by more than one; and
- (d) any member who has sat in a formation of the Committee that has made an interim suspension order or an order for interim conditional entry in a particular case does not sit in subsequent proceedings in that case.

(3) Paragraph (2)(d) does not apply where the subsequent proceedings are held solely for the purposes of determining under article 56 of the Order whether to confirm, vary, replace or revoke an interim suspension order or an order for interim conditional entry.

**Composition of Appeals Committee: further provision**

**18B.**—(1) The chair of the Appeals Committee may, having consulted the secretary of the Committee, and with regard to—

- (a) the decision appealed against and the matters set out in the Notice of Appeal; and
- (b) the availability, experience and expertise of Committee members,

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determine the particular size, composition and quorum of the Committee required for each hearing and any related meeting (other than any case management meeting).

(2) Where the chair determines that only specified members of the Committee are required for a particular hearing and any related meeting, the chair must ensure that—

- (a) the chair or a deputy chair is one of those members;
- (b) the quorum is not less than three; and
- (c) the number of registrant members who are members of that formation of the Committee does not exceed the number of lay members (including any chair or deputy chair) by more than one.”.

### **Functions of legal advisers**

**17.**—(1) Rule 21 of the Statutory Committees and their Advisers Rules (functions of legal advisers) is amended as follows.

(2) In paragraph (1)—

- (a) omit sub-paragraph (a); and
- (b) in sub-paragraph (b), omit “other”.

(3) In paragraph (2), for “paragraph (1)(a) or (b)” substitute “paragraph (1)(b)”.

(4) Omit paragraph (4).

## **PART 3**

### **Amendment of the General Pharmaceutical Council (Fitness to Practise and Disqualification etc.) Rules 2010**

#### **Interpretation of this Part**

**18.** In this Part “the Fitness to Practise Rules” means the General Pharmaceutical Council (Fitness to Practise and Disqualification etc.) Rules 2010(4).

#### **Meaning of “secretary”**

**19.**—(1) Rule 2 of the Fitness to Practise Rules (interpretation) is amended as follows.

(2) In paragraph (1), for the definition of “secretary” substitute—

““secretary”—

- (a) except in relation to references to the secretary of the Investigating Committee, means the secretary to the Committee; and
- (b) in relation to either the Committee or the Investigating Committee, means the person who is for the time being acting as secretary to that Committee;”.

(3) In paragraph (2)—

(a) for sub-paragraph (a)(ii) substitute—

“(ii) the secretary;”; and

(b) for sub-paragraph (b)(i) substitute—

“(i) the secretary to the Investigating Committee;”.

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(4) Scheduled to [S.I. 2010/1615](#).

### **Procedures of the Investigating Committee**

**20.** In rule 9 of the Fitness to Practise Rules (procedures of the Investigating Committee), in paragraph (3)(a), for paragraph (ii) substitute—

- “(ii) have regard to any guidance issued by the Council about the circumstances in which allegations that have been referred to the Investigating Committee should be referred to the Committee;”.

### **Procedure at principal hearings in fitness to practise proceedings**

**21.**—(1) Rule 31 of the Fitness to Practise Rules (procedure at principal hearings before the Committee in fitness to practise proceedings) is amended as follows.

(2) In paragraph (4), for the words “The person acting as secretary” substitute “The secretary”.

(3) For paragraph (14) substitute—

“(14) The Committee must—

- (a) having regard to any guidance issued by the Council about sanctions that particular classes of cases before the Committee should attract, consider the course of action under article 54(2) of the Order which is appropriate in the registrant’s case;
- (b) announce its decision; and
- (c) give its reasons for that decision.”.

### **Procedure at principal hearings in disqualification proceedings**

**22.**—(1) Rule 32 of the Fitness to Practise Rules (procedure at principal hearings before the Committee in disqualification proceedings) is amended as follows.

(2) In paragraph (4), for the words “The person acting as secretary” substitute “The secretary”.

(3) For paragraph (15) substitute—

“(15) The Committee must—

- (a) having regard to any guidance issued by the Council about sanctions that particular classes of cases before the Committee should attract, consider whether or not a direction under section 80(1) or (4) of the Act should be given;
- (b) announce its decision; and
- (c) give its reasons for that decision.”.

(4) In paragraph (16), for “the direction” substitute “a direction”.

(5) In paragraph (18), for sub-paragraph (b) substitute—

- “(b) reconsider the sanction imposed and, having regard to the guidance referred to in paragraph (15)(a), may instead issue a direction under section 80(1) or (4) of the Act (as the case may be).”.

### **Procedure at review hearings**

**23.**—(1) Rule 34 of the Fitness to Practise Rules (procedure at review hearings) is amended as follows.

(2) In paragraph (1), for the words “paragraphs (2) to (9)” substitute “paragraphs (2) to (9A)”.

(3) After paragraph (9) insert—

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“(9A) In making a decision under paragraph (9), the Committee must have regard to any guidance issued by the Council about sanctions that particular classes of cases before the Committee should attract.”.

## **Representation**

**24.**—(1) Rule 40 of the Fitness to Practise Rules (representation) is amended as follows.

(2) In paragraph (2)—

(a) omit “or” at the end of sub-paragraph (b);

(b) for sub-paragraph (c) substitute—

“(c) a representative from the trade union of the person concerned; or”; and

(c) at the end of that sub-paragraph insert—

“(d) a representative from a relevant organisation acting on behalf of the person concerned.”.

(3) In paragraph (3), for “one of its statutory committees” substitute “any of its statutory committees”.

(4) After paragraph (3) insert—

“(4) The reference in paragraph (2)(d) to a relevant organisation is to any body corporate or partnership which advises, assists or represents applicants concerned, registrants or section 80 parties in respect of matters to be determined by the Committee.”.

## **PART 4**

### **Amendment of the General Pharmaceutical Council (Registration) Rules 2010**

#### **Entry in the register**

**25.**—(1) Rule 10 of the General Pharmaceutical Council (Registration) Rules 2010(5) is amended as follows.

(2) In the provisions listed in sub-paragraph (3), for “(or a true copy of it certified by a notary or solicitor)” substitute “(or a copy of the passport which meets the conditions set out in paragraph (3A))”.

(3) The provisions of rule 10 that are referred to in paragraph (2) are—

(a) paragraph (3)(a)(i);

(b) paragraph (3)(c)(i);

(c) paragraph (3)(d)(i); and

(d) paragraph (3)(f)(ii).

(4) For paragraph (3)(b) substitute—

“(b) where the applicant wishes to use a registered name which is different from the name given on the applicant’s evidence of identity—

(i) a certificate demonstrating the change of name (or a copy of the certificate which meets whichever of the conditions set out in paragraph (3B)(a) or (b) is applicable),  
or

(ii) evidence of the change of name in the form of a statutory declaration;”.

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(5) Scheduled to [S.I. 2010/1617](#).

- (5) In paragraph (3)(c), in paragraph (ii), for sub-paragraph (aa) substitute—
- “(aa) the applicant’s birth certificate (or a copy of the certificate which meets whichever of the conditions set out in paragraph (3B)(a) or (b) is applicable), or”.
- (6) After paragraph (3) of the Registration Rules insert—
- “(3A) The conditions referred to in paragraph (3)(a)(i), (c)(i), (d)(i) and (f)(ii) are that the copy of the passport—
- (a) if it is a copy of a United Kingdom passport (within the meaning of the Immigration Act 1971<sup>(6)</sup>), does not include the front cover; and
- (b) whether or not it is a copy of a United Kingdom passport, is certified as being a true copy by a notary, solicitor or Commissioner for Oaths.
- (3B) The conditions referred to in paragraph (3)(b)(i) and (c)(ii)(aa) are—
- (a) if the certificate was issued by the General Register Office for England and Wales or the General Register Office for Scotland, that the copy of it has been obtained from that Office; or
- (b) if the certificate was not issued by either of those Offices, that the copy of it is certified as a true copy by a notary, solicitor or Commissioner for Oaths.”.
- (7) In paragraph (5), for “(or a true copy of it certified by a notary or solicitor)” substitute “(or a true copy of it certified by a notary, solicitor or Commissioner for Oaths)”.

Given under the official seal of the General Pharmaceutical Council this 15th day of November 2012.



*Robert Nicholls  
Duncan Rudkin  
Chair Registrar*

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order approves the General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules 2012 (“the Rules”). The Rules were made by the General Pharmaceutical Council (“the Council”) under the Pharmacy Order 2010 (S.I. 2010/231).

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(6) 1971 c.77. The definition of “United Kingdom Passport” in section 33 of that Act was inserted by section 52(7) of, and paragraph 7(a)(ii) of Schedule 4 to, the British Nationality Act 1981 (c.61).

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Part 2 of the Rules amends the General Pharmaceutical Council (Statutory Committees and their Advisers) Rules 2010 in respect of committee composition, appointment of committee members, the length of membership, the functions of the committees and the role of secretaries and legal advisers to the committees. Rule 4 makes changes to the overall composition of each statutory committee by specifying more flexible limits on the total number of members that each statutory committee is to have. Rules 5 and 6 make changes to the functions of the Investigating Committee and the functions of the Fitness to Practise Committee. Rule 5 removes certain functions of the Investigating Committee and both rules 5 and 6 require each committee to provide advice to the Council in connection with specified matters. Rule 7 requires the Appointments Committee to exercise its functions in such way as to ensure that the requirements are met as to the size and composition of each of the statutory committees. Rule 8 replaces a complete prohibition on multiple committee membership with a narrower restriction on a person being a member of both the Investigating Committee and of any other statutory committee. Rule 9 removes the role of the Appointments Committee in advising the Council about the competencies it considers appropriate for committee members. Rule 10 enables a person to be appointed as a committee member for a term that is less than 4 years. Rule 11 provides for a single reserve list to operate in relation to all the statutory committees listing the persons who are eligible for appointment. Rule 12 amends provisions for suspension and removal from that list. Rule 13 imposes restrictions on when a person can be co-opted as a member of more than one statutory committee. Rule 14 enables a person to act as a secretary to both the Investigating Committee and the Fitness to Practise Committee, subject to certain restrictions. Rules 15 and 16 make amendments to the requirements that apply to the composition of the Fitness to Practise Committees and the Appeals Committee in particular cases. Rule 17 makes changes to the requirements as to when a legal adviser is required to attend proceedings.

Part 3 of the Rules amends the General Pharmaceutical Council (Fitness to Practise and Disqualification etc.) Rules 2010. Rule 19, and rules 21 and 22 in part, make changes to take account of the fact that a person may act as a secretary to more than one statutory committee (to take account of the amendment made by rule 14). Rule 20 amends the procedure of the Investigating Committee to require it to take account of guidance issued by the Council, following advice given by that Committee and by the Fitness to Practise Committee, about the referral criteria the Investigating Committee is to use in relation to allegations about a registrant's fitness to practise (to take account of the amendments made by rules 5(2)(b) and 6(a)). The remainder of rules 21 and 22, and rule 23, amend provisions that relate to the use by the Fitness to Practise Committee of guidance issued by the Council, following advice given by that Committee, in relation to sanctions that particular classes of cases before that Committee should attract (to take account of the amendment made by rule 6(b)). Rule 24 amends the provision that sets out who may represent a person at a hearing before the Fitness to Practise Committee, by replacing the reference to a representative of a defence organisation with a reference to a representative of a relevant organisation, as defined.

Part 4 of the Rules makes a number of amendments to the General Pharmaceutical Council (Registration) Rules 2010 in relation to the procedures for verifying copies of certain documents that are required in support of an application for entry in the register.