

Schedules

Schedule 4

Article 20

RULE-MAKING POWERS

Rules as to the register

1.—(1) The Regulator may make rules as to the form and keeping of the register.

(2) Subject to [sub-paragraph \(3\)](#) and [paragraph 4](#), the Regulator may make rules as to the entering, amendment and removal of information in the register.

(3) The Regulator must prescribe in rules which contact details, including addresses, of associates must be recorded in the register under [article 5\(3\)\(b\)](#).

Rules prescribing persons etc. for the purposes of [articles 6 and 8](#)

2.—(1) The Regulator must prescribe in rules a person or Panel for the purposes of—

- (a) [article 6\(2\)\(a\)](#),
- (b) [article 6\(3\)\(a\)](#), and
- (c) [article 6\(3\)\(b\)](#).

(2) The Regulator may prescribe in rules—

- (a) standards for the purposes of [article 3\(1\)](#);
- (b) a period, for the purposes of [article 6\(2\)](#) or [\(3\)](#), that must have elapsed before an applicant may apply to be registered;
- (c) a limitation on the number of applications an applicant may make under [article 6\(2\)](#) or [\(3\)](#);
- (d) a case for the purposes of [article 6\(3\)\(b\)](#);
- (e) a description of associate for the purposes of [article 8](#).

Rules as to revision of decisions

3.—(1) The Regulator must prescribe in rules decisions for the purposes of [article 15\(1\)](#).

(2) In respect of decisions which are prescribed under [sub-paragraph \(1\)](#), the Regulator may prescribe the circumstances and cases in which it may request representations from the person to whom the decision relates.

(3) The representations referred to in [sub-paragraph \(2\)](#) must be in writing unless the Regulator directs otherwise.

Procedural rules other than for appeals

4.—(1) The Regulator must prescribe in rules the procedure for the purposes of—

- (a) [articles 4\(1\)](#), [6](#), [10](#), [11](#), [12](#), [13](#), [14](#) and [15](#), and
- (b) removing an entry under [article 9\(1\)\(c\)](#).

(2) The Regulator may prescribe in rules the procedure for—

- (a) [article 4\(2\)](#);
- (b) the removal of entries in the register in the circumstances referred to in [article 9\(1\)\(a\)](#) and [\(2\)](#);
- (c) an assessment under [paragraph 7](#) of [Schedule 3](#) and, in particular, for an assessment of a person's physical or mental health.

Procedural rules for appeals

5. The Regulator must prescribe in rules the procedure for appeals under [article 16](#), which must in particular—

- (a) specify—
 - (i) the timescales within which any steps in an appeal are to be taken,
 - (ii) the content of a notice of appeal,
 - (iii) the information to be provided with such a notice of appeal, and
 - (iv) the manner, and deemed date of service, of a notice of appeal,
- (b) provide for a Panel to dispose of the appeal with or without a hearing, but with the proviso that a Panel must hold a hearing if the appellant so requests, and
- (c) permit, in respect of any hearing, the appellant to—
 - (i) attend, and be represented,
 - (ii) make oral representations, and
 - (iii) call witnesses.

Rules as to Panels

6.—(1) The Regulator must prescribe in rules—

- (a) the quorum and constitution of Panels,
- (b) the circumstances in which a Panel may comprise a single decision maker, and
- (c) the circumstances in which proceedings before a Panel are to be held in private.

(2) The Regulator may in rules provide that a Panel may join more than one referral in respect of a person and consider them at the same time.

(3) The Regulator may make rules on any matter relating to the functions of Panels, including as to—

- (a) case management;
- (b) procedural directions;
- (c) evidence;
- (d) administration of oaths;
- (e) requiring persons to attend and give evidence or to produce documents.

Rules as to non-compliance

7.—(1) The Regulator may prescribe in rules—

- (a) the consequences of non-compliance with—
 - (i) rules under [paragraph 4\(2\)\(c\)](#);
 - (ii) a direction under rules under [paragraph 6\(3\)\(b\)](#);

- (b) that the Regulator, the Registrar, a Panel, a case examiner and a person prescribed in rules for the purposes of [article 6\(3\)\(a\)](#) may draw adverse inferences in circumstances prescribed in the rules.
- (2) Rules under [sub-paragraph \(1\)\(a\)\(ii\)](#) may—
 - (a) prescribe—
 - (i) the circumstances in which costs may be awarded by a Panel;
 - (ii) what factors need to be taken into account in awarding costs;
 - (b) provide for—
 - (i) the assessment and taxation of costs or, in Scotland, expenses;
 - (ii) the enforcement of an award of costs or, in Scotland, expenses by a Panel in the same manner as if the award had been made by an order of the county court or, in Scotland, by decree of the sheriff.

Rules as to fees

8.—(1) The Regulator must make rules as to the setting, charging, collection and recovery of fees in connection with the discharge of a function under this Order, including a function discharged outside the United Kingdom.

(2) The rules must not require a registrant to pay fees in connection with specific proceedings to determine that registrant’s fitness to practise.

(3) The rules must require the level of any fees to be set with a view to ensuring that, so far as is reasonably practicable and taking one year with another, the Regulator’s fee income does not exceed its expenses, including amounts reasonably required to be set aside as reserves.

(4) The rules may provide that a request or application in respect of which a fee is payable is not valid unless the fee is paid.

(5) Any fees recoverable pursuant to [this paragraph](#) may be recovered by—

- (a) the Regulator, or
- (b) a person or body prescribed in the rules,

in such circumstances or cases, and to such extent, as may be prescribed in the rules.

(6) Any such sum is recoverable in Scotland as a debt and in England, Wales and Northern Ireland summarily as a civil debt.

Rules as to notifications

9.—(1) The Regulator must make rules as to the notification of the opportunity to make representations under [article 18](#) and as to notification under [paragraph 2 of Schedule 3](#), which include provision as to—

- (a) the content of the notifications,
- (b) any information to be provided with them,
- (c) the period within which they must be given,
- (d) their service, and
- (e) the date on which they are to be deemed to have been received.

(2) Rules under [sub-paragraph \(1\)](#) must require that any notification informs the recipient of, as appropriate—

- (a) the nature of the proceedings to which it refers,

- (b) the timescale within which any response to it is required and the method for making such a response,
- (c) any consequences of failing to respond to it or to comply with the fitness to practise procedure, and in particular any decisions that may be taken in the absence of the person and any action that may be taken for failure to comply with the fitness to practise procedure, and
- (d) any right to be represented and to make representations.

Rules as to Panel appointments

- 10.**—(1) The Regulator must make rules for appointments under [paragraph 1\(b\)\(ii\) of Schedule 1](#).
- (2) Such rules must secure that a person who is a member or an officer of the Regulator must not be appointed to a Panel.
- (3) Such rules may provide for, in particular—
- (a) the process for appointment, suspension and removal;
 - (b) the term of appointment;
 - (c) remuneration.
- (4) The reference in [sub-paragraph \(2\)](#) to an officer of the Regulator is to a person appointed under paragraph 16 of Schedule 1 to the Medical Act 1983(1).

Rules as to Fitness to Practise

- 11.**—(1) The Regulator must prescribe in rules—
- (a) subject to [sub-paragraph \(2\)](#), a period for the purpose of [article 10\(8\)\(b\)](#) which may not be less than 28 days beginning with the date on which the associate received the notification of proposed Final Measure referred to in that provision;
 - (b) that a Panel in fitness to practise proceedings must consist of at least—
 - (i) one person who—
 - (aa) has been registered,
 - (bb) has an approved qualification, or
 - (cc) is a registrant member (within the meaning of paragraph 1A(1) of Schedule 1 to the Medical Act 1983(2)), and
 - (ii) one person who does not satisfy [sub-paragraph \(i\)](#).
- (2) For the purpose of [sub-paragraph \(1\)\(a\)](#), a notification sent electronically must be deemed to be received on the day on which it was sent.
- (3) In respect of the functions of a case examiner the Regulator may make rules in respect of case management and evidence.

Rules as to appeals

- 12.** The Regulator may prescribe in rules persons, other than itself, for the purposes of [article 16\(4\)](#).

(1) Paragraph 16 was amended by [S.I. 2002/3135](#), [2008/1774](#) and [2015/794](#).

(2) Paragraph 1A was substituted by [S.I. 2008/1774](#) and amended by paragraph 6(a) of Schedule 20 to the Health and Social Care Act 2012 (c. 7).

Rules as to when decisions take effect

13. The Regulator may make rules setting out the date from which—
- (a) a revision under [article 15](#);
 - (b) an Interim Measure;
 - (c) any Final Measure which does not require removal of an associate’s entry from the register, takes effect.

Rules for the purpose of [paragraph 7 of Schedule 3](#)

14. The Regulator must prescribe in rules persons, information, an interval and a manner for the purpose of [paragraph 7\(1\)\(a\)](#) and (2) of [Schedule 3](#).

General provision about rules

- 15.—(1) Rules under [this Schedule](#) may—
- (a) make different provision for different cases or different classes of case;
 - (b) make different provision for different circumstances;
 - (c) contain such incidental, consequential, transitional, transitory, saving or supplementary provision as appears to the Regulator to be necessary or expedient.
- (2) Before making rules under [this Schedule](#) the Regulator must consult, to the extent it considers appropriate, representatives of any group of persons which appear to the Regulator likely to be affected by the rules, including representatives of—
- (a) associates,
 - (b) employers of associates,
 - (c) users of the services of associates, and
 - (d) persons providing, assessing or funding education or training for associates or prospective associates.