

2020 No. 1325

HEALTH CARE AND ASSOCIATED PROFESSIONS

OPTICIANS

**The General Optical Council (Committee Constitution,
Registration and Fitness to Practise) (Coronavirus)
(Amendment) Rules Order of Council 2020**

Made - - - - *16th November 2020*

Coming into force - - *14th December 2020*

At the Council Chamber, Whitehall, the 16th day of November 2020

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

The General Optical Council has made the General Optical Council (Committee Constitution, Registration and Fitness to Practise) (Coronavirus) (Amendment) Rules Order of Council 2020, as set out in the Schedule to this Order, in exercise of the powers conferred by sections 5A(3), 5C(3), 23A(2), 23C(1), (2) and (9) and 31A of, and paragraph 12A of Schedule 1 to, the Opticians Act 1989(a) (“the 1989 Act”).

In accordance with section 23C(10) of the 1989 Act the General Optical Council has consulted with representatives of groups of persons who appear likely to be affected by the proposed Rules.

In accordance with section 34(1) of the 1989 Act, the Rules shall not come into force until approved by Order of the Privy Council.

Citation and commencement

1. This Order may be cited as the General Optical Council (Committee Constitution, Registration and Fitness to Practise) (Coronavirus) (Amendment) Rules Order of Council 2020 and comes into force on 14th December 2020.

Privy Council approval

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

Richard Tillbrook
Clerk of the Privy Council

(a) 1989 c.44; sections 5A, 5C, 23A and 23C were inserted by S.I. 2005/848.

SCHEDULE

Article 2

THE GENERAL OPTICAL COUNCIL (COMMITTEE CONSTITUTION, REGISTRATION AND FITNESS TO PRACTISE) (CORONAVIRUS) (AMENDMENT) RULES 2020

The General Optical Council makes the following Rules in exercise of the powers conferred under sections 5A(3), 5C(3), 23A(2), 23C(1), (2) and (9) and 31A of, and paragraph 12A of Schedule 1 to, the Opticians Act 1989(a) (“the 1989 Act”).

The General Optical Council have consulted in accordance with section 23C(10) of the 1989 Act, such consultation being limited in scope in the context of a worldwide health pandemic.

PART 1

Preliminaries

Citation and commencement and expiry

1. These Rules may be cited as the General Optical Council (Committee Constitution, Registration and Fitness to Practise) (Coronavirus) (Amendment) Rules 2020 and come into force on 14th December 2020.

2.—(1) Subject to paragraph (2), at the end of 1st October 2021—

- (a) the amendments made by these Rules expire; and
- (b) the provisions amended by these Rules, as they were in force immediately prior to the amendments made by these Rules, are revived.

(2) Paragraph (1) does not apply to the amendments made by rules 4, 17 and 19.

PART 2

Amendment of the General Optical Council (Committee Constitution) Rules 2005

Amendment of the General Optical Council (Committee Constitution) Rules 2005

3. The General Optical Council (Committee Constitution) Rules 2005(b) are amended as follows.

4. After rule 2 (interpretation), insert—

“Notices

2ZA.—(1) Any notice provided under these Rules may be served by email if the addressee has provided the other party with an email address for communications.”.

5. For rule 14(c), substitute—

“14.—(1) Subject to rule (2), when considering any matter relating to one or more optometrists or one or more students undertaking training as an optometrist (including a

(a) 1989 c.44; sections 5A, 5C, 23A and 23C were inserted by S.I. 2005/848.

(b) Rules as set out in the Schedule to the General Optical Council (Committee Constitution Rules) Order of Council 2005, (S.I. 2005/1474). Relevant amending instrument S.I. 2008/3113.

(c) Relevant amending instrument is S.I. 2008/3113.

combination of both of these types of individuals), the Registration Appeals Committee shall consist of not less than—

- (a) one registered optometrist; and
- (b) two lay persons,

who are each to be selected in accordance with rule 29.

(2) The quorum of a Registration Appeals Committee convened under this rule shall be two persons, consisting of one registered optometrist and one lay person.”.

6. For rule 15(a), substitute—

“**15.**—(1) Subject to rule (2), when considering any matter relating to one or more dispensing opticians or one or more students undertaking training as a dispensing optician (including a combination of both of these types of individuals), the Registration Appeals Committee shall consist of not less than—

- (a) one registered dispensing optician; and
- (b) two lay persons,

who are to be selected in accordance with rule 29.

(2) The quorum of a Registration Appeals Committee convened under this rule shall be two persons, consisting of one registered dispensing optician and one lay person.”.

7. For rule 16(b), substitute—

“**16.**—(1) Subject to rule (2), when considering any matter relating to one or more bodies corporate, the Registration Appeals Committee shall consist of not less than—

- (a) one registered optometrist or one registered dispensing optician; and
- (b) two lay persons,

who are each to be selected in accordance with rule 29.

(2) The quorum of a Registration Appeals Committee convened under this rule shall be two persons, consisting of one registered optometrist or registered dispensing optician and one lay person.”.

8. In rule 16A(c)—

- (a) For paragraph (2), substitute—

“(2) Subject to rule (3), in the circumstances described in paragraph (1), the Registration Appeals Committee shall consist of not less than—

- (a) one registered optometrist or one registered dispensing optician; and
- (b) two lay persons,

who are each to be selected in accordance with rule 29.”.

- (b) After paragraph (2), insert—

“(3) The quorum of a Registration Appeals Committee convened under this rule shall be two persons, consisting of one registered optometrist or registered dispensing optician and one lay person.”.

9. Omit rule 17.

10. For rule 18, substitute—

“**18.** The Chairman of the Registration Appeals Committee at any of its proceedings shall be—

(a) Relevant amending instrument is S.I. 2008/3113.
(b) Relevant amending instrument is S.I. 2008/3113.
(c) Rule 16A was inserted by S.I. 2008/3113.

- (a) if there is only one lay person present, that lay person;
- (b) if there is more than one lay person present at the commencement of the proceedings, a lay person elected from among them;
- (c) if the Chairman ceases to be able to serve as a member of the Committee during the proceedings and more than one lay person remains present, a lay person elected from among them.”.

11. For rule 22(a), substitute—

“**22.**—(1) Subject to rule 24A, when considering any matter relating to the fitness to practise of one or more registered optometrists or registered students undertaking training as optometrists (including a combination of both those types of registrant)—

- (a) at a procedural hearing or an interim hearing—
 - (i) subject to rule (ii), the Fitness to Practise Committee shall consist of not less than—
 - (aa) one registered optometrist, and
 - (bb) two lay persons, and
 - (ii) the quorum of the Fitness to Practise Committee shall be two persons, consisting of one registered optometrist and one lay person; who are each selected in accordance with rule 29; or
- (b) at a substantive hearing—
 - (i) subject to rule (ii), the Fitness to Practise Committee shall consist of not less than—
 - (aa) one registered optometrist, and
 - (bb) two lay persons, and
 - (ii) the quorum of the Fitness to Practise Committee shall be two persons, consisting of one registered optometrist and one lay person; who are each selected in accordance with rule 29.”.

12. For rule 23(b), substitute—

“**23.** Subject to rule 24A, when considering any matter relating to the fitness to practise of one or more registered dispensing opticians or registered students undertaking training as dispensing opticians (including a combination of both of those types of registrant)—

- (a) at a procedural hearing or an interim hearing—
 - (i) subject to rule (ii), the Fitness to Practise Committee shall consist of not less than—
 - (aa) one registered dispensing optician, and
 - (bb) two lay persons, and
 - (ii) the quorum of the Fitness to Practise Committee shall be two persons, consisting of one registered dispensing optician and one lay person; who are each selected in accordance with rule 29; or
- (b) at a substantive hearing—
 - (i) subject to rule (ii), the Fitness to Practise Committee shall consist of—
 - (aa) one registered dispensing optician, and
 - (bb) two lay persons; and

(a) Rule 22 was substituted by S.I. 2008/3113.
 (b) Rule 23 was substituted by S.I. 2008/3113.

- (ii) the quorum of the Fitness to Practise Committee shall be two persons, consisting of one registered dispensing optician and one lay person; who are each selected in accordance with rule 29.”.

13. For rule 24(a), substitute—

“**24.** When considering any matter relating to the fitness to practise of one or more business registrants to carry on the business of an optometrist or dispensing optician or both—

- (a) at a procedural hearing or an interim hearing—
 - (i) subject to rule (ii), the Fitness to Practise Committee shall consist of not less than—
 - (aa) one registered optometrist or registered dispensing optician, and
 - (bb) two lay persons, and
 - (ii) the quorum of the Fitness to Practise Committee shall be two persons, consisting of one registered optometrist or registered dispensing optician and one lay person;

who are each selected in accordance with rule 29; or

- (b) at a substantive hearing—
 - (i) subject to rule (ii), the Fitness to Practise Committee shall consist of not less than—
 - (aa) one registered optometrist or registered dispensing optician, and
 - (bb) two lay persons; and
 - (ii) the quorum of the Fitness to Practise Committee shall be two persons, consisting of one registered optometrist or registered dispensing optician and one lay person;

who are each selected in accordance with rule 29.”.

14. In rule 24A(b) , for rules (2) and (3) substitute—

“(2) at a procedural hearing or an interim hearing—

- (i) subject to rule (ii), the Fitness to Practise Committee shall consist of not less than—
 - (aa) one registered optometrist or registered dispensing optician, and
 - (bb) two lay persons, and
- (ii) the quorum of the Fitness to Practise Committee shall be two persons, consisting of one registered optometrist or registered dispensing optician and one lay person;

who are each selected in accordance with rule 29; or

(3) at a substantive hearing—

- (i) subject to rule (ii), the Fitness to Practise Committee shall consist of not less than—
 - (aa) one registered optometrist or registered dispensing optician, and
 - (bb) two lay persons; and
- (ii) the quorum of the Fitness to Practise Committee shall be two persons, consisting of one registered optometrist or registered dispensing optician and one lay person;

(a) Rule 24 was substituted by S.I. 2008/3113.

(b) Rule 24A was substituted by S.I. 2008/3113.

who are each selected in accordance with rule 29.”.

15. Omit rule 25.

16. For rule 26 substitute—

“26. The Chairman of the Fitness to Practise Committee at any of its proceedings shall be—

- (a) if there is only one lay person present, that lay person;
- (b) if there is more than one lay person present at the commencement of the proceedings, a lay person elected from among them;
- (c) if the Chairman ceases to be able to serve as a member of the Committee during the proceedings and more than one lay person remains present, a lay person elected from among them.”.

PART 3

Amendment of the General Optical Council (Registration) Rules 2005

Amendment of the General Optical Council (Registration) Rules 2005

17. In the General Optical Council (Registration) Rules 2005(a), after rule 2 (interpretation), insert—

“Notices and notifications

2A.—(1) Any notice, notification or other document which is required by these Rules to be served on another person may be served by email if that person has provided an email address for communications.”.

PART 4

Amendment of the General Optical Council (Fitness to Practise) Rules 2013

Amendment of the General Optical Council (Fitness to Practise) Rules 2013

18. The General Optical Council (Fitness to Practise) Rules 2013(b) are amended as follows.

19. After rule 2 (interpretation), insert—

“Notices and notifications

2A. Any notice, notification or other document which is required by these Rules to be served on another person may be served by email if that person has provided an email address for communications.”.

20. After the newly inserted rule 2A (Notices and notifications), insert—

(a) Rules as set out in the Schedule to the General Optical Council (Registration) Rules Order of Council 2005 (S.I. 2005/1478). There are other amending instruments but none are relevant
(b) Rules as set out in the Schedule to the General Optical Council (Fitness to Practise) Rules Order of Council 2013 (S.I. 2013/2537).

“Virtual meetings and hearings

2B.—(1) A meeting or hearing arranged under these Rules may be conducted using audio or video conferencing facilities.

(2) In cases where a meeting or hearing is to be held using audio or video conferencing facilities under paragraph (1), any notice required to be sent under these Rules giving notice of venue must include details of the audio or video conferencing arrangements required to access the hearing.”.

21. After rule 37 (adjournments under rule 36), insert—

“Postponement

37A.—(1) The Hearings Manager may postpone any listed hearing which has not started.

(2) The Hearings Manager shall decide the new date for the hearing.

(3) The Hearings Manager shall notify the registrant—

(a) of a decision under paragraph (1) as soon as practicable after the decision is made; and

(b) of a decision under paragraph (2) at least 7 days before the new hearing date, unless the hearing is to take place less than 7 days after the decision under paragraph (2), in which case the Hearings Manager shall give the registrant as much notice of the new date as practicable.”.

Given under the official seal of the General Optical Council this 9th day of November 2020



Gareth Hadley
Chair of the General Optical Council

Lesley Longstone
Chief Executive and Registrar of the General Optical Council

EXPLANATORY NOTE

(This note is not part of the Order)

The Order amends the General Optical Council (Committee Constitution) Rules 2005 (as contained in S.I. 2005/1474) (“the Committee Constitution Rules”), the General Optical Council (Registration) Rules 2005 (as contained in S.I. 2005/1478) (“the Registration Rules”) and the General Optical Council (Fitness to Practise) Rules 2013 (as contained in S.I. 2013/2537) (“the Fitness to Practise Rules”).

The Committee Constitution Rules are amended:

1. to reduce the number of individuals required for the Registration Appeal Committees and Fitness to Practise Committees: these may start with three or more panellists, and will be quorate with two panellists,

2. to enable notices, notifications and other documents to be sent by email, if an email address has been provided for communication, and

3. to enable a new chairperson be put in place should one become indisposed.

The Registration Rules are amended in order that notices may be sent by email to an email address, if one has been provided for communication.

The Fitness to Practise Rules are amended:

- 1.** to provide for the Hearings Manager to postpone and relist hearings,
- 2.** to enable notices to be sent by email, if an email address has been provided for communication, and
- 3.** to allow for hearings to be held by audio or video conference.

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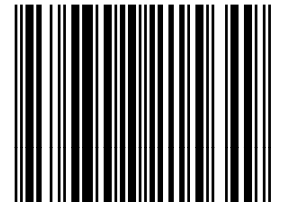
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