

SCHEDULE

Regulation 2(9)

AMENDMENT OF SCHEDULE 2 TO THE 2018 REGULATIONS

1. After paragraph 1(1) insert—

“(1A) In order to make a determination under sub-paragraph (1), the regulator may require the supply of information or documents in accordance with paragraph 5(1).”.

2.—(1) Paragraph 5 is amended as follows.

(2) In sub-paragraph (1), before “the investigators” insert “the regulator or”.

(3) In sub-paragraph (3), before “the investigators” in both places, insert “the regulator or”.

(4) For sub-paragraph (4) substitute—

“(4) The regulator or the investigators may take such steps as are reasonably practicable to obtain any further information relevant to carrying out their functions under this Schedule.

(5) At any stage in fitness to practise proceedings, the regulator may—

(a) consider whether an interim order may be necessary for the protection of the public or in the best interests of the social worker, and

(b) propose that an interim order be made in accordance with paragraph 8.

(6) Where the regulator has been notified in accordance with paragraph 8(1), it must consider whether an interim order may be necessary for the protection of the public or in the best interests of the social worker.

(7) Where the regulator considers an interim order may be necessary for the protection of the public or in the best interests of the social worker, it must appoint two or more adjudicators to consider whether to make an interim order in accordance with paragraph 8.

(8) The investigators must refer the case to the case examiners at the conclusion of the investigation.”.

3.—(1) Paragraph 8 is amended as follows.

(2) For sub-paragraph (1) substitute—

“(1) If, at any stage, an investigator or the case examiners are of the opinion that an interim order may be necessary for the protection of the public or in the best interests of the social worker, they must notify the regulator of their opinion and the reasons for that opinion.

(1A) Where the regulator has been notified in accordance with sub-paragraph (1), the regulator may appoint two or more adjudicators to consider whether to make an interim order in accordance with this paragraph.”.

(3) For sub-paragraph (3) substitute—

“(3) The adjudicators may not make an interim order unless the conditions in sub-paragraphs (3A) and (3B) have been complied with.

(3A) The condition in this sub-paragraph is that the regulator has first informed the social worker—

(a) that an interim order may be made, and

(b) of the reasons why it considers that an interim order may be necessary for the protection of the public or in the best interests of the social worker.

(3B) The condition in this sub-paragraph is that the regulator has given the social worker the opportunity—

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- (a) to make written submissions, or
 - (b) to attend before the adjudicators and be represented, in order to make oral submissions.
- (3C) Where the adjudicators make an interim order under sub-paragraph (2), they must inform the regulator of the making of that order and its terms.”.
- (4) In sub-paragraph (4)—
- (a) for the words before paragraph (a) substitute “Where the regulator has been informed in accordance with sub-paragraph (3A), the regulator must—”;
 - (b) in paragraph (a)—
 - (i) before “order” insert “interim”;
 - (ii) omit sub-paragraph (i).
- (5) After sub-paragraph (5) insert—
- “(5A) An interim order made under sub-paragraph (2) takes effect from the date on which it is made notwithstanding any appeal against the order.”.
- (6) In sub-paragraph (6)—
- (a) in paragraph (a), after “determine” in the first place in which it occurs, insert “, in the case in respect of which the order was made,”;
 - (b) in paragraph (b), after “determine” insert “, in the case in respect of which the order was made,”;
 - (c) in paragraph (c) for “a case” substitute “the case in respect of which the order was made”;
 - (d) in paragraph (d), after “social worker” insert “in the case in respect of which the interim order was made,”.
4. In paragraph 9, after sub-paragraph (3), insert—
- “(4) A decision to dispose of a case under sub-paragraph (3)(a) takes effect from the date on which the social worker is informed of the decision under sub-paragraph (3)(b)(ii) notwithstanding any review of that decision under paragraph 9A or 15(2).”.
5. After paragraph 9 insert (in Part 2)—

“Review of decisions

- 9A.—**(1) Rules under regulation 25(5)(a) may make provision for enabling the regulator to review a decision of the case examiners to take any course of action allowed by paragraph 6, 7 or 9.
- (2) Rules made by virtue of sub-paragraph (1) may, in particular, include provision as to—
- (a) which decisions made under those paragraphs may be reviewed;
 - (b) the period within which such a review is to be commenced;
 - (c) the process to be followed by the regulator in carrying out such a review (including the determinations to be made by the regulator);
 - (d) the actions which may be taken following such a review.”.
6. In paragraph 10(4)—
- (a) for “adjudicators” substitute “regulator”;
 - (b) in sub-paragraph (a), for “they” substitute “the adjudicators”.

7.—(1) Paragraph 11 is amended as follows.

(2) For sub-paragraph (2) substitute—

“(2) The adjudicators may not make an interim order under sub-paragraph (1)(a) unless the conditions in sub-paragraphs (2A) and (2B) have been complied with.

(2A) The condition in this sub-paragraph is that the regulator has first informed the social worker—

- (a) that an interim order may be made, and
- (b) of the reasons why it considers that an interim order may be necessary for the protection of the public or in the best interests of the social worker.

(2B) The condition in this sub-paragraph is that the regulator has given the social worker the opportunity—

- (a) to make written submissions, or
- (b) to attend before the adjudicators and be represented, in order to make oral submissions.

(2C) An interim order made under sub-paragraph (1) takes effect from the date on which it is made notwithstanding any appeal against the order.”.

(3) After sub-paragraph (3) insert—

“(3A) Where the adjudicators make an interim order under sub-paragraph (1), they must inform the regulator of the making of that order and its terms.”.

(4) For sub-paragraph (4) substitute—

“(4) Where the regulator has been informed in accordance with sub-paragraph (3A), the regulator must—

- (a) inform the persons specified in paragraph 8(4)(a)(ii) to (v) of the terms of the order, and
- (b) notify the social worker of their right to appeal to the High Court under Part 5.”.

8.—(1) Paragraph 12 is amended as follows.

(2) After sub-paragraph (3) insert—

“(3A) Where the adjudicators make a final order, they must inform the regulator of the terms of the order and the reasons for it.”.

(3) In sub-paragraph (4)—

- (a) for the words before paragraph (a) substitute “Where the regulator has been informed in accordance with sub-paragraph (3A), the regulator must—”;
- (b) in paragraph (a)—
 - (i) before “order” insert “final”;
 - (ii) omit sub-paragraph (i).

(4) After sub-paragraph (4) insert—

“(5) A final order does not take effect until the expiry of the period within which an appeal against the order could be made or, where an appeal against the order has been made, until the appeal is withdrawn or otherwise finally disposed of.”.

9. For paragraph 13(2) substitute—

“(2) A removal order may only be made in a case where—

- (a) the adjudicators found the social worker’s fitness to practise to be impaired on one or more of the grounds set out in regulation 25(2)(a), (c), (d), (f), or (g),

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- (b) the adjudicators found the social worker’s fitness to practise to be impaired on one or more of the grounds set out in regulation 25(2)(b), (e) or (h) and the social worker was either suspended from practice, or subject to a conditions of practice order, or a combination of both, for a continuous period of two years immediately preceding the day when the removal order took effect, or
- (c) the case examiners—
 - (i) found that there was a realistic prospect that the adjudicators would make a determination that the social worker’s fitness to practise was impaired on one or more of the grounds set out in regulation 25(2)(a), (c), (d), (f), or (g), and
 - (ii) have both disposed of the case in accordance with paragraph 9(3)(a) and informed the persons specified in paragraph 9(3)(b).”.

10.—(1) Paragraph 14 is amended as follows.

- (2) In sub-paragraph (1)(b), for “three” substitute “six”.
- (3) After sub-paragraph (7) insert—

“(8) Where sub-paragraph (5) applies, the action taken on a review under sub-paragraph (1) takes effect from the date on which the regulator completes the review notwithstanding any appeal against that decision.”.

11.—(1) Paragraph 15 is amended as follows.

- (2) In sub-paragraph (1)—
 - (a) in paragraph (a), for “the extended period does not exceed three years” substitute “the extension or further extension does not exceed three years from the date on which it is extended or further extended”;
 - (b) in paragraph (b)—
 - (i) after “any order” insert “(“the new order”);
 - (ii) for “the orders have effect does not exceed three years in total” substitute “the new order has effect does not exceed three years from the date on which it is made”;
 - (c) after paragraph (c) insert—
 - “(d) revoke the order with effect from the date of the review for the remainder of the period for which it would have had effect.”.
- (3) After sub-paragraph (1) insert—

“(1A) Where a social worker appeals against a decision made under sub-paragraph (1), the decision being appealed takes effect from the date specified in that sub-paragraph notwithstanding any appeal against that decision.”.
- (4) In sub-paragraph (2)—
 - (a) in paragraph (b), for “three years” substitute—

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 - (i) in the case of a suspension or a conditions of practice order, three years;
 - or
 - (ii) in the case of a warning order, five years.”.
 - (b) in paragraph (c), omit “under paragraph 12(3)(b)”;
 - (c) for paragraph (d) substitute—

- “(d) substitute any order which the adjudicators or the case examiners could have made on the date on which they made the order.”.
- (5) After sub-paragraph (2) insert—
- “(2A) The decision on a review under sub-paragraph (2) takes effect from the date on which the regulator completes the review notwithstanding any appeal against that decision.”.
- (6) In sub-paragraph (3), for “a final order” substitute “an order made under paragraph 12(3)(b)”.
- (7) In sub-paragraph (4), after “paragraph” insert “9(2)(c) or”.
- 12.** For paragraph 16(2) substitute—
- “(2) An appeal must be filed before the end of the period of 28 days beginning with the day after the day on which the social worker is notified of the decision complained of.”.