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DRAFT STATUTORY INSTRUMENTS

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**2024 No.**

**The Anaesthesia Associates and  
Physician Associates Order 2024**

**Part 4**

**FITNESS TO PRACTISE**

**Steps which may be taken where a question as to fitness to practise arises**

**10.**—(1) Where the Regulator considers that a question has arisen as to whether an associate's fitness to practise is impaired, the Regulator must—

- (a) carry out an initial assessment, and
- (b) where the Regulator considers appropriate, refer the matter to a case examiner.

(2) The case examiner to which a referral is made under [paragraph \(1\)\(b\)](#) must take one of the steps specified in [paragraphs \(3\)](#) and [\(4\)](#).

(3) The step specified under this paragraph is for the case examiner to determine whether the associate's fitness to practise is impaired and—

- (a) where the associate's fitness to practise is found not to be impaired—
  - (i) take no further action, or
  - (ii) issue the associate with a warning;
- (b) where the associate's fitness to practise is found to be impaired—
  - (i) subject to [paragraph \(8\)](#), impose a Final Measure, or
  - (ii) refer the matter on to a Panel.

(4) The step specified under this paragraph is for the case examiner to refer the matter on to a Panel.

(5) A Panel to which a referral is made under [paragraph \(3\)\(b\)\(ii\)](#) must satisfy itself as to whether, and under [paragraph \(4\)](#) must determine whether, the associate's fitness to practise is impaired and—

- (a) where the associate's fitness to practise is found not to be impaired—
  - (i) take no further action, or
  - (ii) issue the associate with a warning;
- (b) where the associate's fitness to practise is found to be impaired—
  - (i) take no further action, or
  - (ii) impose a Final Measure.

(6) The case examiner may withdraw a referral to a Panel if the Panel has not yet satisfied itself as to whether, or determined whether, fitness to practise is impaired.

(7) [Paragraph \(5\)](#) does not apply to a referral which is withdrawn under [paragraph \(6\)](#).

- (8) If a case examiner determines that an associate's fitness to practise is impaired, the case examiner may only impose a Final Measure if the associate—
- (a) has agreed to the Final Measure being imposed on the basis that—
    - (i) the associate's fitness to practise is impaired, and
    - (ii) the associate has accepted the case examiner's findings, or
  - (b) has been notified that the case examiner proposes imposing a Final Measure and a reasoned response by the associate has not been received by the case examiner within the period prescribed under [paragraph 11\(1\)\(a\) of Schedule 4](#).
- (9) A notification under [paragraph \(8\)\(b\)](#) must—
- (a) request that the associate provide a reasoned response within the prescribed period, and
  - (b) inform the associate that a Final Measure may be imposed if the associate fails to respond.
- (10) A Final Measure imposed under [paragraph \(3\)\(b\)\(i\)](#) or [\(5\)\(b\)\(ii\)](#) may require that an associate's entry in a part of the register (into which the register is divided under [article 5\(2\)\(a\)](#)) be—
- (a) subject to condition,
  - (b) suspended, or
  - (c) removed.

### Interim Measures

**11.**—(1) Where a question has arisen in accordance with [article 10\(1\)](#) as to whether an associate's fitness to practise is impaired, an Interim Measure may be imposed upon that associate by a Panel, pending—

- (a) the conclusion of an assessment under [article 10\(1\)\(a\)](#);
- (b) a determination by a case examiner under [article 10\(3\)](#);
- (c) a determination by a Panel under [article 10\(5\)](#);
- (d) a determination by the Regulator under [article 14\(2\)](#);
- (e) a decision under [article 16\(5\)](#) in respect of [articles 10\(3\)\(b\)\(i\)](#), [13\(1\)](#) or [14\(3\)](#);
- (f) a decision under [article 17\(6\)](#) in respect of [articles 10\(3\)\(b\)\(i\)](#) or [\(5\)\(b\)\(ii\)](#), [11\(1\)](#), [13\(1\)](#) or [14\(3\)](#),

where the Panel considers that such an Interim Measure is necessary for the protection of the public, or is otherwise in the interests of the public or the associate.

(2) A Panel which imposes an Interim Measure under [paragraph \(1\)](#) must specify the period for which the Measure is to remain in force.

(3) The Panel may not specify a period longer than 18 months.

(4) The Regulator may—

- (a) where it is carrying out—
  - (i) an assessment mentioned in [paragraph \(1\)\(a\)](#), or
  - (ii) a determination mentioned in [paragraph \(1\)\(b\)](#) or [\(c\)](#), and
- (b) before the expiration of the period for which the Interim Measure to which the assessment or determination relates is to remain in force,

apply to the court for an extension of the period.

(5) On an application under [paragraph \(4\)](#), the court may only extend the period if it is satisfied that the current period will not allow such time as is reasonable in the circumstances of the case for the assessment or determination to conclude.

(6) The court may not extend the period for longer than 12 months on each application.

(7) For the purposes of paragraphs (4) to (6), reference to a period for which an Interim Measure is to remain in force includes a period as previously extended under those provisions or in accordance with article 12.

(8) An Interim Measure imposed under paragraph (1) may require that an associate's entry in a part of the register (into which the register is divided under article 5(2)(a)) be—

- (a) subject to condition, or
- (b) suspended.

### Interim Measures - review

**12.**—(1) In respect of an Interim Measure which remains in force in respect of an associate, the Regulator must carry out—

- (a) a first review of the Measure before the end of a period of six months beginning with the date on which it first had effect, and
- (b) subsequent reviews of the Measure before the end of a period of six months beginning with—
  - (i) the date of the previous review, or
  - (ii) where a court has, since the previous review, extended the period for which the Measure is to remain in force, the date on which the order to extend is made.

(2) A failure to conduct a review in accordance with paragraph (1) does not affect the validity of the Interim Measure.

(3) The Regulator may at any time review an Interim Measure which remains in force, including where a question arises as to whether an associate is complying with a condition on their registration.

(4) On a review under this article, the Regulator may—

- (a) extend the period specified for the Measure to remain in force,
- (b) vary a condition to which an associate's entry is subject,
- (c) revoke an Interim Measure and impose a different Interim Measure in respect of an associate,

if, in the opinion of the Regulator, an Interim Measure remains necessary for the protection of the public or remains in the interests of the public or the associate upon whom the Measure is imposed.

(5) Where the Regulator imposes a different Interim Measure under paragraph (4)(c), it must specify the period for which the Measure is to remain in force.

(6) Article 11(8) applies to a different Interim Measure imposed under paragraph (4)(c).

(7) The Regulator may not exercise the power under paragraph (4) so as to provide that an associate is subject to an Interim Measure or Measures in respect of the same matter for a period of longer than 18 months.

(8) On a review under this article, the Regulator may only revoke an Interim Measure without imposing a different Interim Measure if, in the opinion of the Regulator, the Interim Measure is no longer necessary for the protection of the public or is no longer in the interests of the public or the associate upon whom the Interim Measure is imposed.

(9) Where—

- (a) an appeal is brought under article 16 or 17 against a decision or a part of a decision, and
- (b) the decision, or part of it, is revoked or revised under this article before the appeal is determined,

the appeal (or the part of the appeal which relates to the revoked or revised part of the decision) will lapse.

### **Final Measures**

**13.**—(1) A case examiner who imposes a Final Measure under [article 10\(3\)\(b\)\(i\)](#), or a Panel which imposes a Final Measure under [article 10\(5\)\(b\)\(ii\)](#), must specify the period for which the Final Measure is to remain in force.

(2) The case examiner or the Panel may not specify a period of longer than 12 months.

(3) [This article](#) does not apply where the Final Measure imposed is for an associate's entry to be removed from a part of the register.

### **Final Measures - review**

**14.**—(1) The Regulator may at any time review a Final Measure which remains in force in respect of an associate where that associate's entry in the register is subject to a condition or is suspended, including where a question arises as to compliance with a condition on that associate's registration.

(2) On a review under [this article](#), the Regulator may revoke a Final Measure if, in the opinion of the Regulator, the fitness to practise of the associate in respect of whom the Final Measure is imposed is no longer impaired.

(3) On a review under [this article](#), the Regulator may—

- (a) extend the period for which a Final Measure is to remain in force,
- (b) vary a condition to which an associate's entry in the register is subject,
- (c) revoke a Final Measure and impose a different Final Measure in respect of an associate,

if, in the opinion of the Regulator, the fitness to practise of that associate remains impaired.

(4) For the purposes of [paragraph \(3\)\(a\)](#), the Regulator may only extend the period—

- (a) specified under [article 13\(1\)](#), or
- (b) previously extended under [paragraph \(3\)\(a\)](#),

by a period not longer than 12 months on each occasion.

(5) [Article 13](#) applies to the Regulator in imposing a different Final Measure under [paragraph \(3\)\(c\)](#) as it applies to a case examiner and Panel.

(6) [Article 10\(10\)](#) applies to a different Final Measure imposed under [paragraph \(3\)\(c\)](#).

(7) Where—

- (a) an appeal is brought under [article 16](#) or [17](#) against a decision or a part of a decision, and
- (b) the decision, or part of it, is revoked or revised under [this article](#) before the appeal is determined,

the appeal (or the part of the appeal which relates to the revoked or revised part of the decision) will lapse.