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STATUTORY INSTRUMENTS

2009 No. 1813

HEALTH CARE AND ASSOCIATED PROFESSIONS

DENTISTS

PROFESSIONS COMPLEMENTARY TO DENTISTRY

**The General Dental Council (Constitution of Committees) Rules
Order of Council 2009**

Made - - - - - *6th July 2009*

Coming into force - - - - - *1st October 2009*

At the Council Chamber, Whitehall the 6th day of July 2009

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

The General Dental Council has made the General Dental Council (Constitution of Committees) Rules 2009, which are set out in the Schedule to this Order, in exercise of the powers conferred by sections 2(6) and (6A) and 50C(5) and (6) of, and paragraph 8 of Schedule 1 to, the Dentists Act 1984(a).

By virtue of section 50C(2) of that Act, such Rules shall not come into force until approved by Order of the Privy Council.

Their Lordships, having taken these Rules into consideration, are pleased to and do approve them.

This Order may be cited as the General Dental Council (Constitution of Committees) Rules Order of Council 2009 and comes into force on 1st October 2009.

Judith Simpson
Clerk of the Privy Council

(a) 1984 c. 24. In section 2, subsection (6) was inserted by S.I. 2001/3926 and amended by S.I. 2009/1182, and subsection (6A) was inserted by S.I. 2009/1182. Paragraph 8 of Schedule 1 was amended by S.I. 2001/2011, 2005/2011 and 2009/1182.

SCHEDULE

The General Dental Council (Constitution of Committees) Rules 2009

The General Dental Council make the following rules in exercise of their powers conferred by sections 2(6) and (6A), 50C(5) and (6) of, and paragraph 8 of Schedule 1 to, the Dentists Act 1984.

Citation and commencement

1.—(1) These Rules may be cited as the General Dental Council (Constitution of Committees) Rules 2009 and apart from rule 6(h), they come into force on 1st October 2009;

(2) Rule 6(h) comes into force on the coming into force of section 44(1) of the Safeguarding Vulnerable Groups Act 2006(a) (registers: power to apply for vetting information).

Interpretation

2. In these Rules—

“Committee” (except in the term “Appointments Committee”) means the Investigating Committee, the Interim Orders Committee, the Professional Conduct Committee, the Health Committee, the Professional Performance Committee or the Registration Appeals Committee; “final outcome”, in relation to any proceedings where there are rights of appeal, means the outcome of the proceedings—

- (a) once the period for bringing an appeal has expired without an appeal being brought; or
- (b) if an appeal is brought in accordance with those rights, once those rights have been exhausted;

“lay person” means a natural person who—

- (a) is not and never has been a registered dentist or a registered dental care professional, and
- (b) does not hold a qualification or qualifications which would entitle them to apply for registration as a registered dental care professional;

“licensing body” means any body, other than the Council, anywhere in the world that licenses or regulates any profession;

“member”, unless the context otherwise requires, means a member of a Committee, whether they are a registrant or lay person, and includes the chair;

“registrant” means registered dentist or a registered dental care professional; and

“spent conviction” means—

- (a) in relation to a conviction by a court in Great Britain, a conviction that is a spent conviction for the purposes of the Rehabilitation of Offenders Act 1974(b); or
- (b) in relation to a conviction by a court in Northern Ireland, a conviction that is a spent conviction for the purposes of the Rehabilitation of Offenders (Northern Ireland) Order 1978(c).

Constitution of the Appointments Committee

3.—(1) There shall continue to be a committee of the Council known as the Appointments Committee.

(2) The Council shall appoint the members of the Appointments Committee, and shall appoint the chair of the Appointments Committee from among those members.

(a) 2006 c.47.

(b) 1974 c. 53.

(c) S.I. 1978/1908 (N.I. 27).

(3) The Appointments Committee shall consist of not more than 8 persons and shall include both—

- (a) registrants; and
- (b) lay persons.

(4) The persons appointed to the Appointments Committee shall be neither—

- (a) members, nor
- (b) employees or members of the Council.

(5) There shall be a Secretary to the Appointments Committee who shall not be a member of the Appointments Committee.

(6) The Appointments Committee shall have the following functions—

- (a) the general function of assisting the Council in connection with the exercise of any function relating to the appointment of members, including the recruitment, selection, appraisal and disciplining of members or particular members (for example, the chair); and
- (b) the particular functions assigned to it by these Rules (and by the Council under its standing orders).

The Committees

4.—(1) Each Committee shall consist of—

- (a) in the case of the Investigating Committee, a maximum of 40 persons;
- (b) in the case of the Interim Orders Committee, a maximum of 100 persons;
- (c) in the case of the Professional Conduct Committee, a maximum of 100 persons;
- (d) in the case of the Health Committee, a maximum of 50 persons;
- (e) in the case of the Professional Performance Committee, a maximum of 100 persons; and
- (f) in the case of the Registration Appeals Committee, a maximum of 100 persons,

appointed by the Appointments Committee and persons so appointed shall be either registrants or lay persons.

(2) No person who is a member of the Investigating Committee may serve concurrently as a member of any other Committee.

(3) No person who is a member of the Council may serve concurrently as a member of a Committee.

(4) The Appointments Committee shall determine the duration of the term of office of members on their appointment (or reappointment).

(5) Members may attend only the proceedings of the Committees that they are invited to attend by the registrar or person duly authorised by the registrar to invite them.

(6) The panel of members invited to attend particular proceedings of a Committee may perform any functions of the Committee that are relevant to those proceedings.

(7) The quorum for each panel of a Committee shall be 3, of which there shall be at least—

- (a) one registered dentist;
- (b) one lay person; and
- (c) in any case concerning a person's registration in the dental care professionals register, one registered dental care professional.

(8) The quorum of each panel of a Committee shall include a person chairing the meeting who may count as the registered dentist, lay person or registered dental care professional mentioned in paragraph (7).

Chairing of the Committees

5.—(1) The Appointments Committee shall appoint, from amongst the members of each of the Committees, persons to act as chairs of the Committee (“panel chairs”).

(2) The registrar or person duly authorised by the registrar shall, before each meeting of a Committee, invite a panel chair to attend the proceedings of the committee, and the panel chair so attending shall chair the proceedings.

(3) A member serving as a panel chair of a Committee shall cease to be a panel chair of that Committee if—

- (a) the member ceases to be a member of the Committee;
- (b) the member resigns as panel chair, which they may do at any time by a notice in writing to the chair of the Appointments Committee;
- (c) the Appointments Committee votes to terminate the member’s appointment as panel chair.

Disqualification from appointment as a member

6. A person is disqualified from appointment as a member if that person—

- (a) has at any time been convicted of an offence involving dishonesty or deception in the United Kingdom and the conviction is not a spent conviction;
- (b) has at any time been convicted of an offence in the United Kingdom, and—
 - (i) the final outcome of the proceedings was a sentence of imprisonment or detention, and
 - (ii) the conviction is not a spent conviction;
- (c) has at any time been removed—
 - (i) from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners, the Charity Commission, the Charity Commission for Northern Ireland or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity—
 - (aa) for which the person was responsible or to which the person was privy, or
 - (bb) which the person by their conduct contributed to or facilitated, or
 - (ii) under—
 - (aa) section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990(a) (powers of Court of Session to deal with management of charities), or
 - (bb) section 34(5)(e) of the Charities and Trustee Investment (Scotland) Act 2005(b) (powers of the Court of Session),from being concerned with the management or control of any body;
- (d) has at any time been removed from office as the chair, member, convenor or director of any public body on the grounds, in terms, that it was not in the interests of, or conducive to the good management of, that body that the person should continue to hold that office;
- (e) at any time has been adjudged bankrupt or sequestration of the person’s estate has been awarded, and—
 - (i) the person has not been discharged, or
 - (ii) the person is the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986(c) or Schedule 2A

(a) 1990 c.40; section 7 was repealed by the Charities and Trustee Investment (Scotland) Act 2005 (asp 10), Schedule 4, paragraph 7(b).

(b) 2005 asp 10.

(c) 1986 c.45; Schedule 4A was inserted by section 257 of, and Schedule 20 to, the Enterprise Act 2002 (c.40).

- to the Insolvency (Northern Ireland) Order 1989(a) (which relate to bankruptcy restrictions orders and undertakings);
- (f) has at any time made a composition or arrangement with, or granted a trust deed for, the person's creditors and the person has not been discharged in respect of it;
- (g) is subject—
- (i) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986(b),
 - (ii) a disqualification order under Part 2 of the Companies (Northern Ireland) Order 1989(c) (company directors disqualification),
 - (iii) a disqualification order or disqualification undertaking under the Company Directors Disqualification (Northern Ireland) Order 2002(d), or
 - (iv) an order made under section 429(2) of the Insolvency Act 1986(e) (disabilities on revocation of a county court administration order);
- (h) has been included by—
- (i) the Independent Barring Board in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006(f) or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007(g)), or
 - (ii) the Scottish Ministers in the children's list or the adults' list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007(h));
- (i) has at any time been subject to any investigation or proceedings concerning the person's fitness to practise by any licensing body, the final outcome of which was—
- (i) the person's suspension from a register held by the licensing body, and that suspension has not been terminated,
 - (ii) the person's erasure from a register held by the licensing body or a decision that had the effect of preventing the person from practising the profession licensed or regulated by the licensing body, or
 - (iii) a decision that had the effect of only allowing the person to practise that profession subject to conditions, and those conditions have not been lifted;
- (j) has at any time been subject to any investigation or proceedings concerning the person's fitness to practise by the Council, in the course of which or where the final outcome was that—
- (i) the person's registration in the register was suspended (including by an interim suspension order or an order for immediate suspension) and that suspension has not been terminated,
 - (ii) the person was erased from the register (for a reason connected to the person's fitness to practise), or
 - (iii) the person's registration in the register was made conditional upon their compliance with any requirement (including by an order for interim conditional registration or an order for immediate conditional registration) and that requirement has not been lifted;
- (k) has at any time been subject to any investigation or proceedings relating to an allegation that the person's entry in the register was fraudulently procured, the final outcome of which was the erasure of the person from the register;

(a) S.I. 1989/2405 (N.I. 19); Schedule 2A was inserted by S.I. 2005/1455 (N.I. 10).
 (b) 1986 c.46.
 (c) S.I. 1989/2404 (N.I. 18).
 (d) S.I. 2002/3150 (N.I. 4); relevant amendments were made by S.I. 2005/1454 (N.I. 9).
 (e) Section 429(2) was amended by the Enterprise Act 2002 (c.40), Schedule 23, paragraph 15.
 (f) 2006 c.47.
 (g) S.I. 2007/1351 (N.I. 11).
 (h) 2007 asp 14.

- (l) is or has been subject to any investigation or proceedings concerning the person's fitness to practise by—
 - (i) any licensing body, or
 - (ii) the Council,
 and the Appointments Committee is satisfied that the person's membership of the Committee would be liable to undermine public confidence in the regulation of registrants; or
- (m) has at any time been convicted of an offence elsewhere than in the United Kingdom and the Appointments Committee is satisfied that the person's membership of the Committee would be liable to undermine public confidence in the regulation of registrants.

Removal of members from office

- 7.—(1) A member shall be removed from office by the Appointments Committee, if—
- (a) the member resigns, which a member may do at any time by a notice in writing to the chair of the Appointments Committee;
 - (b) in the case of—
 - (i) a member appointed in part because they were a registrant, that member's registration is voluntarily terminated or otherwise lapses, or
 - (ii) a member appointed in part because they were a lay person, that member ceases to be a lay person;
 - (c) the member becomes a person of the type mentioned in rule 6(a), (b) or (e) to (h) (irrespective of whether or not they subsequently cease to be a person of the type mentioned in those provisions);
 - (d) the member becomes a person of the type mentioned in rule 6(c) or (d);
 - (e) in the case of a registrant member, the member has become the subject of any investigation or proceedings concerning the member's fitness to practise by the Council, as a result of which—
 - (i) the member's registration in the register is suspended,
 - (ii) the member's name is erased from the register, or
 - (iii) the member's registration in the register is made conditional upon the member's compliance with any requirement,
 and the proceedings relating to that particular sanction have reached their final outcome;
 - (f) in the case of a registrant member, the member has become the subject of any investigation or proceedings relating to an allegation that the person's entry in the register was fraudulently procured or incorrectly made, the final outcome of which is the removal of the person's entry in the register;
 - (g) the Appointments Committee is satisfied that the member's level of attendance at meetings of the Committee falls below a minimum level of attendance acceptable to the Appointments Committee, having regard to—
 - (i) any recommended minimum levels of attendance that the Council have set in their standing orders, and
 - (ii) whether or not there were reasonable causes for the member's absences;
 - (h) the Appointments Committee is satisfied that the member has failed, without reasonable cause, to undertake satisfactorily the requirements with regard to education and training for members that apply to that member and which the Council have included in their standing orders;
 - (i) the Appointments Committee is satisfied that the member is no longer able to perform their duties as a member of the Committee because of adverse physical or mental health;

- (j) the Appointments Committee is satisfied that the member's continued membership of the Committee would be liable to undermine public confidence in the regulation of registrants.

(2) A member who becomes, or may be about to become, a person to whom paragraph (1)(b) to (f) applies must notify the Appointments Committee in writing of that fact as soon as the person becomes aware of it.

(3) Any member and any employee or member of the Council may notify the Appointments Committee if they are of the view that the Appointments Committee may need to exercise its functions under paragraph (1).

Suspension of members from office

8.—(1) The Appointments Committee may suspend a member from office by a notice in writing served on the member—

- (a) if the Appointments Committee has reasonable grounds for suspecting that the member has become a person to whom rule 7(1)(b)(ii) to (d) applies, for the purposes of determining whether or not the member has become such a person;
- (b) while the Appointments Committee is considering whether or not it is satisfied as to the matters set out in rule 7(1)(g) to (j);
- (c) if the member is subject to any investigation or proceedings concerning the member's fitness to practise by—
 - (i) any licensing body, or
 - (ii) the Council,

and the Appointments Committee is satisfied that it would not be appropriate for the member to continue to participate in proceedings of the Committee while the investigation or proceedings concerning the member's fitness to practise is or are ongoing;

- (d) if the member is subject to any investigation or proceedings concerning whether the member's entry in the register was fraudulently procured or incorrectly made and the Appointments Committee is satisfied that it would not be appropriate for the member to continue to participate in proceedings of the Committee while the investigation or proceedings is or are ongoing; or
- (e) if the member is subject to any investigation or proceedings in the United Kingdom relating to a criminal offence, or elsewhere than in the United Kingdom relating to an offence which, if committed in any part of the United Kingdom, would constitute a criminal offence, and—
 - (i) either—
 - (aa) the investigation or proceedings relate to an offence involving dishonesty or deception, or
 - (bb) the final outcome of the investigation or proceedings may be that the person is sentenced to a term of imprisonment (whether suspended or not), and
 - (ii) the Appointments Committee is satisfied that it would not be appropriate for the member to continue to participate in proceedings of the Committee while the investigation or proceedings is or are ongoing.

(2) The Appointments Committee shall suspend a registrant member from office by a notice in writing served on the member if the member is the subject of an interim suspension order or an order for interim conditional registration.

(3) The notice in writing under paragraph (1) or (2) shall set out the reasons for the suspension and the duration of the period of suspension, which shall (in the first instance) not be for more than 6 months.

(4) The Appointments Committee—

- (a) may at any time review a suspension of a member by it; and
 - (b) shall review any suspension of a member by it after 3 months from the start of the period of suspension, if requested to do so by the suspended member.
- (5) Following a review, the Appointments Committee may—
- (a) terminate the suspension;
 - (b) if that review is within 3 months of the end of a period of suspension, extend the suspension for a further period of up to 6 months from the date on which the suspension would otherwise come to an end.
- (6) The Appointments Committee shall notify the suspended member in writing of the outcome of any review and that notice shall include the reasons for any decision taken.

Revocations

9.—(1) Rules 2 to 16 of the General Dental Council (Appointments Committee and Appointment of Members of Committees) Rules 2006(a) are revoked.

(2) The General Dental Council (Appointments Committee and Appointment of Members of Committees) Amendment Rules 2007(b) are revoked.

Given under the official seal of the General Council this 15th day of June 2009



Hew Bryne Mathewson
President

Duncan Hugh Rudkin
Registrar

EXPLANATORY NOTE

(This note is not part of the Order)

This Order approves Rules of the General Dental Council relating to the constitution of the following committees of that Council: the Appointments Committee, the Investigating Committee, the Professional Conduct Committee, the Health Committee, the Professional Performance Committee and the Registration Appeals Committee. These Committees, apart from the Appointments Committee, are referred to in this note as “the Statutory Committees”.

Rule 1 contains introductory provisions, and rule 2 continues in existence the Appointments Committee, which is given functions relating to the appointment of members of the Statutory Committees.

Rule 3 sets out the composition of each of the Statutory Committees, provides for how panels of those committees are to meet and contains provisions as to their quora. Rule 5 sets out their chairing arrangements.

(a) Scheduled to S.I. 2006/1664.
(b) Scheduled to S.I. 2007/3005.

Rules 6 to 8 contain common provisions for all the Statutory Committees relating to the grounds for disqualification from appointment to them, and to the removal of their members from office. The Appointments Committee is also given powers to suspend members of the Statutory Committees where, for example, it is considering removing them from office.

Rule 9 includes some consequential revocations of earlier Rules.

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£5.75

E1111 08/2011 111111T 19585

ISBN 978-0-11-151458-0



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