

2010 No. 1616**HEALTH CARE AND ASSOCIATED PROFESSIONS****The General Pharmaceutical Council (Statutory Committees and their Advisers Rules) Order of Council 2010**

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| <i>Made</i> | <i>28th June 2010</i> |
| <i>Laid before Parliament</i> | <i>5th July 2010</i> |
| <i>Laid before the Scottish Parliament</i> | <i>5th July 2010</i> |
| <i>Coming into force</i> | <i>27th September 2010</i> |

At the Council Chamber, Whitehall, the 28th day of June 2010

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

The General Pharmaceutical Council¹ has made the General Pharmaceutical Council (Statutory Committees and their Advisers) Rules 2010, which are set out in the Schedule to this Order, in exercise of the powers conferred by articles 18(2), 63(4), 64(8) and 66(1) of, and paragraph 5 of Schedule 1 to, the Pharmacy Order 2010.

In accordance with article 66(3) of that Order, the General Pharmaceutical Council has, in relation to rules under Parts 4 and 7 of that Order, consulted such persons or organisations as it considered appropriate including persons and organisations listed in paragraphs (a) to (h) of article 66(3) of that Order.

By virtue of article 66(4) of that Order, such rules cannot 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.

Notes

¹ The Council was established by article 4 of the Pharmacy Order 2010 (S.I. 2010/231).

ExtentPreamble: Great Britain

This Order may be cited as the General Pharmaceutical Council (Statutory Committees and their Advisers Rules) Order of Council 2010 and comes into force on 27th September 2010.

Commencement

para. 1: September 27, 2010

Extent

para. 1: Great Britain

✔ Law In Force

Judith Simpson
Clerk of the Privy Council

SCHEDULE

✔ Law In Force

The General Pharmaceutical Council (Statutory Committees and their Advisers) Rules 2010

The General Pharmaceutical Council makes these Rules in exercise of the powers conferred by articles 18(2), 63(4), 64(8) and 66(1) of, and paragraph 5 of Schedule 1 to, the Pharmacy Order 2010.

In accordance with article 66(3) of that Order, the General Pharmaceutical Council has, in relation to rules under Parts 4 and 7 of that Order, consulted such persons or organisations as it considered appropriate including persons and organisations listed in paragraphs (a) to (h) of article 66(3) of that Order.

PART 1**General**

✔ Law In Force

1. Citation and commencement

These Rules may be cited as the General Pharmaceutical Council (Statutory Committees and their Advisers) Rules 2010 and come into force on 27th September 2010.

✔ Law In Force

2. Interpretation

In these Rules—

“the Order” means the Pharmacy Order 2010;

“the Appeals Committee Rules” means the General Pharmaceutical Council (Appeals Committee) Rules 2010¹;

“Appointments Committee” means the committee established by the Council pursuant to its powers in article 4(7) of the Order for the purpose of exercising the functions conferred on it by these Rules and other functions delegated to it by the Council;

[...]²

“criminal conduct allegation” means a complaint to, or concern of, the Council which gives rise to, or may give rise to, criminal proceedings under any enactment;

“disqualification allegation” means a complaint to, or concern of, the Council which gives rise to, or may give rise to, an inquiry under Part 4 of the Medicines Act 1968³;

“final outcome” means, in relation to any proceedings where there are rights of appeal, the outcome of 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;

“fitness to practise allegation” means a complaint to, or concern of, the Council which is an allegation for the purposes of article 52(1), 53(1) or 54(1) of the Order, as appropriate;

“lay member” means a member of a statutory committee who is not, and has never been, entered in the register of any regulatory body and does not hold qualifications which would entitle them to apply for entry in the Register under the Order;

“legally qualified” means, in relation to a person, that that person is—

(a) a barrister, advocate or solicitor who falls within subparagraphs (i) or (ii) of article 61(2)(c) of the Order; or

(b) a solicitor in Scotland who does not fall within paragraph (a);

“licensing body” means any body anywhere in the world which licenses or regulates any profession;

[“the PSA” means the Professional Standards Authority for Health and Social Care;]⁴

“registrant member” means a member of a statutory committee who is a registrant;

“Registration Rules” means the General Pharmaceutical Council (Registration) Rules 2010⁵;

“spent conviction” means—

(a) in relation to a conviction by a court in Great Britain, a spent conviction within the meaning given by the Rehabilitation of Offenders Act 1974;

(b) in relation to a conviction by a court in Northern Ireland, a spent conviction within the meaning given by the Rehabilitation of Offenders (Northern Ireland) Order 1978⁶;

“statutory committees” means the Investigating Committee, the Fitness to Practise Committee and the Appeals Committee.

PART 2

Composition of the Statutory Committees

 Law In Force

3.— Composition of the statutory committees

(1) The Investigating Committee is to consist of—

(a) a lay member who is the chair;

- (b) two lay members who are deputy chairs; [and]⁷
- [(c) not fewer than three and not more than eleven other members who may be lay members or registrant members.]⁸
- (d) [...]⁹

(2) The Fitness to Practise Committee is to consist of—

- (a) a lay member who is the chair;
- [(b) not fewer than three and not more than eight lay members who are deputy chairs; and]¹⁰
- [(c) not fewer than eight and not more than fifty one other members who may be lay members or registrant members.]¹¹
- (d) [...]¹²

(3) The Appeals Committee is to consist of—

- (a) a lay member who is the chair;
- (b) two lay members who are deputy chairs; [and]¹³
- [(c) not fewer than three and not more than seventeen other members who may be lay members or registrant members.]¹⁴
- (d) [...]¹⁵

[(3A) The number of lay members of each committee (including any chair or deputy chair) must be at least the same as the number of registrant members.]¹⁶

(4) The chairs and deputy chairs referred to in paragraphs (1)(a) and (b), (2)(a) and (b) and (3)(a) and (b) may be legally qualified.

(5) In the absence of the chair of a statutory committee at a meeting or hearing, one of the deputy chairs of that committee may perform the functions of the chair.

PART 3

Functions of the Investigating Committee and the Fitness to Practise Committee

 Law In Force

4.— Additional functions of the Investigating Committee

(1) The Investigating Committee has the following additional functions—

- (a) [...]¹⁷
- [(b) providing advice to the Council about the content of any guidance to be issued by the Council about the circumstances in which allegations that have been referred to the Investigating Committee should be referred to the Fitness to Practise Committee;]¹⁸
- (c) determining whether or not disqualification allegations that have been referred to it should be referred to the Fitness to Practise Committee;
- (d) considering criminal conduct allegations referred to it by the Registrar; and
- [(e) determining whether to notify the Registrar that the Council should consider exercising any of its powers to bring criminal proceedings in relation to—

 - (i) criminal conduct allegations, and
 - (ii) cases that have been referred to it as disqualification allegations.

] ¹⁹

(2) [...] ²⁰

✓ Law In Force

5. Additional functions of the Fitness to Practise Committee

The Fitness to Practise Committee has the following additional functions—

(a) providing advice requested by the Registrar under rule 10(8) or (10) or 20(2) of the Registration Rules;

[(ab) providing advice requested by the Registrar under rule 9(2)(b) of the General Pharmaceutical Council (Continuing Professional Development and Consequential Amendments) Rules 2011;] ²¹

[(b) providing advice to the Council about the content of the guidance referred to in rule 4(1)(b);] ²²

(c) providing advice to the Appeals Committee under rule 9(1)(d) of the Appeals Committee Rules; and

[(d) providing advice to the Council about the content of any guidance to be issued by the Council about sanctions that particular classes of cases before the Fitness to Practise Committee should attract.] ²³

[PART 4

Appointment and Removal of Statutory Committee Members

✓ Law In Force

6. Appointments Committee

(1) The Appointments Committee is to exercise the following functions in accordance with these Rules—

(a) selecting and appointing appropriate persons to serve as members of the statutory committees including as chairs and deputy chairs;

(b) where appropriate, suspending or removing from office members, including chairs and deputy chairs, of the statutory committees; and

(c) overseeing procedures for the training, development, performance review and appraisal of members, including chairs and deputy chairs, of the statutory committees.

(2) In exercising the functions under paragraph (1)(a), the Appointments Committee must ensure that the requirements of rule 3 as to the size and composition of each statutory committee are met.

✓ Law In Force

7.— Eligibility of members and former members of the Council for appointment to statutory committees

(1) Members of the Council may not be appointed to any of the statutory committees.

(2) Former members of the Council may be appointed to one of the statutory committees, provided that they have not held office as a member of the Council for a period of four years prior to the date of application for membership of the relevant statutory committee.

✓ Law In Force

8.— Eligibility of employees of the Council and other persons for appointment to statutory committees

- (1) An employee of the Council may not be appointed to any of the statutory committees.
- (2) A person may not be appointed to be at the same time—
 - (a) a member of the Investigating Committee; and
 - (b) a member of another statutory committee.
- (3) A person may not be appointed to a statutory committee if that person—
 - (a) has at any time been subject to any investigation or proceedings concerning that person's professional conduct (including fitness to practise) conducted by any licensing body, other than the Council, the final outcome of which was—
 - (i) the person's suspension from a register held by that licensing body, and that suspension has not expired or been terminated,
 - (ii) the person's erasure from a register held by that licensing body or a decision that had the effect of preventing the person from practising the profession licensed or regulated by that licensing body, or
 - (iii) a decision that had the effect of only allowing the person to practise that person's profession subject to conditions, and those conditions have not expired or been terminated;
 - (b) has at any time been subject to any investigation or proceedings concerning that person's professional conduct (including fitness to practise) by the Council, the final outcome of which was—
 - (i) the person's entry in the Register, or part of the Register, was suspended (including by an interim suspension order), and that suspension has not expired or been terminated,
 - (ii) the person's entry in the Register, or part of the Register, was removed, or
 - (iii) the person's entry in the Register, or part of the Register, was made subject to an order imposing conditions with which the person must comply (including an order for interim conditional entry), and those conditions have not expired or been terminated;
 - (c) has at any time been subject to any investigation or proceedings relating to an allegation that the person's entry in the Register, or part of the Register, was fraudulently procured—
 - (i) in the course of which the person's entry in the Register, or part of the Register, was suspended, and that suspension has not expired or been terminated, or
 - (ii) the final outcome of which was the removal of the person's entry from the Register, or part of the Register;
 - (d) has at any time been subject to any investigation or proceedings concerning the person's professional conduct (including fitness to practise) by—
 - (i) the Council, or
 - (ii) any other licensing body,and the Appointments Committee is satisfied that the person's membership of a statutory committee would be liable to undermine public confidence in the regulation of pharmacists or pharmacy technicians;
 - (e) has at any time been convicted of an offence—
 - (i) in the United Kingdom where the final outcome of the proceedings was a sentence of imprisonment or detention, and the conviction is not spent,

- (ii) in the United Kingdom where the final outcome of the proceedings was not a sentence of imprisonment or detention, the conviction is not spent, and the Appointments Committee is satisfied that the person's membership of a statutory committee would be liable to undermine public confidence in the regulation of pharmacists or pharmacy technicians, or
 - (iii) outside the United Kingdom and the Appointments Committee is satisfied that the person's membership of a statutory committee would be liable to undermine public confidence in the regulation of pharmacists or pharmacy technicians;
- (f) has received a caution for a criminal offence in the United Kingdom and the Appointments Committee is satisfied that the person's membership of a statutory committee would be liable to undermine public confidence in the regulation of pharmacists or pharmacy technicians;
- (g) has at any time been included in—
- (i) any barred list within the meaning of the Safeguarding Vulnerable Groups Act 2006, or
 - (ii) any barred list within the meaning of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007²⁵,
- unless that person was removed from the list either on the grounds that it was not appropriate for that person to have been included in it or as the result of a successful appeal;
- (h) is included in the children's list or the adults' list maintained under the Protection of Vulnerable Groups (Scotland) Act 2007;
- (i) has at any time 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 1986²⁶ or Schedule 2A to the Insolvency (Northern Ireland) Order 1989²⁷ or sections 56A to 56K of the Bankruptcy (Scotland) Act 1985²⁸,
- and the Appointments Committee is satisfied that the person's membership of a statutory committee would be liable to undermine public confidence in the regulation of pharmacists or pharmacy technicians;
- (j) is a person to whom a moratorium period under a debt relief order under Part VIIA of the Insolvency Act 1986 (debt relief orders) applies, or is the subject of a debt relief restrictions order or an interim debt relief restrictions order under Schedule 4ZB to that Act²⁹ (debt relief restrictions order and undertaking), and the Appointments Committee is satisfied that the person's membership of a statutory committee would be liable to undermine public confidence in the regulation of pharmacists or pharmacy technicians;
- (k) is subject to—
- (i) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986,
 - (ii) a disqualification order under Part II of the Companies (Northern Ireland) Order 1989³⁰,
 - (iii) a disqualification order or disqualification undertaking under the Company Directors Disqualification (Northern Ireland) Order 2002³¹, or
 - (iv) an order made under section 429(2) of the Insolvency Act 1986³² (disabilities on revocation of a county court administration order);

- (l) has at any time been removed 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—
 - (i) for which that person was responsible or to which that person was privy, or
 - (ii) which was contributed to, or facilitated by, that person's conduct;
- (m) has at any time been removed from being concerned with the management or control of any body in any case where removal was by virtue of—
 - (i) section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990³³ (powers of Court of Session to deal with management of charities), or
 - (ii) section 34(5)(e) of the Charities and Trustees Investment (Scotland) Act 2005 (powers of Court of Session);
- (n) has at any time been removed from office as the chair, or a member, convenor or director, of any public body on the grounds 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; or
- (o) 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.

✓ Law In Force

9.— Required competencies for members of statutory committees

- (2) The Council is to determine the minimum competencies required for appointment as a chair, deputy chair or other member of a statutory committee.
- (4) No person may be appointed as a chair, deputy chair or other member of a statutory committee unless that person possesses, or has demonstrated the ability to acquire within a reasonable period of time (as determined by the Appointments Committee), the minimum competencies determined by the Council.

✓ Law In Force

10.— Standards and training for statutory committee members

- (1) A member (“B”) of a statutory committee must—
 - (a) attend all meetings and hearings at which B's presence is required unless there is a good reason for B not being able to do so;
 - (b) prepare for any meeting or hearing by reading any papers issued to the members of the statutory committee beforehand;
 - (c) if B is unable to attend a meeting or hearing at which B's presence is required, take all reasonable steps to give advance warning of B's absence to the secretary of the relevant statutory committee; and
 - (d) comply with the code of conduct for statutory committee members approved and published by the Council.
- (2) Each member of a statutory committee must undertake periodic training provided or arranged by the Council (which may be training provided by another body), for the purpose of assisting the member to carry out their role as a member of the relevant statutory committee.

(3) Each member of a statutory committee (including chairs and deputy chairs) must have their performance appraised periodically in accordance with arrangements determined by the Appointments Committee.

(4) The appraisal referred to in paragraph (3) must include consideration of the member's participation in training and attendance at meetings of the relevant statutory committee.

✔ Law In Force

11. Period of membership of a statutory committee

No person—

- (a) may be appointed as a member of a particular statutory committee (including a chair or deputy chair) for a term of office that is longer than four years;
- (b) may serve as a member of the same committee for more than a total of eight years in any twenty year period.

✔ Law In Force

12. Resignation of statutory committee members

A member of a statutory committee may resign from that committee at any time by notifying the Appointments Committee in writing.

✔ Law In Force

13.— Reserve list

[(1) The Appointments Committee must maintain a reserve list of persons who are eligible to serve as a member of one or more statutory committees.]³⁴

[(1A) In relation to any person whose name appears on the reserve list, the Appointments Committee must specify—

- (a) the statutory committee or statutory committees to which appointment may be appropriate;
- (b) whether any appointment would be as a registrant member or as a lay member;
- (c) whether appointment as a chair or deputy chair of the Investigating Committee may be appropriate;
- (d) whether appointment as a deputy chair of the Fitness to Practise Committee may be appropriate; and
- (e) whether appointment as a chair or deputy chair of the Appeals Committee may be appropriate.

(1B) In relation to any person whose name appears on the reserve list, where—

- (a) both the Fitness to Practise Committee and the Appeals Committee are specified as statutory committees to which the person's appointment may be appropriate; and
- (b) the person is appointed to one of those committees,

the person's name may be retained on the reserve list for the purpose of appointment to the other committee.

] ³⁵

(2) Persons may only be retained on the reserve list for a period of 3 consecutive years, after which time their suitability for continued inclusion in that list is to be reconsidered by the Appointments Committee.

[(3) Persons on the reserve list may be appointed to fill a vacancy that arises on a statutory committee only if—

- (a) the matters specified in the reserve list under paragraph (1A) in respect of that person show that the person is suitable for the vacancy; and
- (b) the Appointments Committee considers that it would be appropriate to make the appointment.

] ³⁶

(4)-(5) [...] ³⁷

(6) Persons on the reserve list may be invited to attend training provided or arranged by the Council (which may be training provided by another body) to maintain their suitability for continued inclusion on the reserve list.

[(7) Where a member of a statutory committee other than the chair is unable to sit to consider a case for any reason, the chair of the committee may co-opt a person whose name appears on the reserve list to serve as a member of the committee (including as a deputy chair) for that particular case if—


- (a) that committee is specified as a statutory committee to which the person's appointment may be appropriate; and
- (b) the chair considers that it would be appropriate for the person to serve as a member of the committee.

] ³⁸

[(8) A person may not be co-opted under paragraph (7) to be at the same time—

- (a) a member of the Investigating Committee; and
- (b) a member of another statutory committee.

] ³⁹

 Law In Force

14.— Suspension and removal of statutory committee members and persons on the reserve list

(1) The Appointments Committee must remove from a statutory committee any member—

- (a) who resigns from membership of [the statutory committee in question] ⁴⁰ in accordance with these Rules;
- (b) whose term of office [for the statutory committee in question] ⁴¹ has expired;
- (c) who, in the case of a registrant member, has ceased to be entered in the Register;
- (d) who, in the opinion of the Appointments Committee,—
 - (i) has ceased to be an appropriate person to be a member of [the statutory committee in question] ⁴² (for example, by reason of misconduct or a criminal conviction),
 - (ii) has seriously or persistently failed to meet the standards of performance, conduct, attendance or participation in training required of a member of [the statutory committee in question] ⁴² in the ordinary course of a member's duties,
 - (iii) is unable to perform the duties of a member because of ill health,

- (iv) has improperly disclosed confidential information obtained by the member in the course of membership of [any statutory committee]⁴³ ,
- (v) has brought the Council into disrepute,
- (vi) has failed to comply with the code of conduct for statutory committee members approved and published on the Council's website by the Council⁴⁴ , or
- (vii) should no longer continue to be a member of [the statutory committee in question]⁴² in the public interest.

(2) The Appointments Committee must remove from the reserve list any person—

- (a) who requests removal from the reserve list;
- (b) who, in the case of a potential registrant member, has ceased to be entered in the Register;
- (c) who, in the opinion of the Appointments Committee,—
 - (i) has ceased to be an appropriate person to be on the reserve list (for example, by reason of misconduct or criminal conviction),
 - (ii) would be unable to perform the duties of a member of a statutory committee because of ill-health,
 - (iii) has brought the Council into disrepute, or
 - (iv) should no longer remain on the reserve list in the public interest.

(3) The Appointments Committee may suspend a member of a statutory committee while investigations are being undertaken into that member's suitability to remain as a member of that statutory committee.

(4) The Appointments Committee must afford any member of a statutory committee, or any person on the reserve list, who is under investigation the opportunity to make written and oral representations before reaching a decision on whether to remove that member from the statutory committee or that person from the reserve list.

[(5) The Council must determine the procedure for—

- (a) the suspension or removal of a member of a statutory committee; and
- (b) the removal of a person from the reserve list,

and must prepare and issue a statement of that procedure to each committee member and person on the reserve list.

] ⁴⁵

✓ Law In Force

15. Casual vacancies

Where a vacancy occurs on a statutory committee as a result of the resignation, removal or death of a chair, deputy chair or other member of that statutory committee, the Appointments Committee must—

- (a) appoint a replacement chair, deputy chair or other member from the reserve list; or
- (b) where no suitable replacement member is available from the reserve list, appoint a replacement in accordance with these Rules.

✓ Law In Force

16.— Power to co-opt members of statutory committees

(1) Subject to [paragraphs (3) to (4)]⁴⁶ , the chair of a statutory committee may, after consulting with a legal adviser to that committee, co-opt appropriate persons to act as members of that statutory

committee where it is necessary or desirable to do so in order for that statutory committee to be able to dispose of a particular case.

(2) The power in paragraph (1) is in addition to the power in rule 13(7).

(3) No person may be co-opted as a member of a statutory committee unless that person possesses, or has demonstrated the ability to acquire within a reasonable period of time (as determined by the chair of the statutory committee to which it is proposed the person will be co-opted as a member), the relevant competencies determined by the Council.

[(3A) A person may not be co-opted under paragraph (1) to be at the same time—

- (a) a member of the Investigating Committee; and
- (b) a member of another statutory committee.

] ⁴⁷


(4) The following [other] ⁴⁸ persons may not be co-opted as a member of a statutory committee—

- (a) a member of the Council;
- (b) [...] ⁴⁹
- (c) a member of the Appointments Committee; and
- (d) an employee of the Council.

] ²⁴

[PART 5

Provisions Relating to Meeting and Hearings

 Law In Force

17.— Secretaries of statutory committees

(1) Each statutory committee is to be assisted by a secretary.

(2) No person may act as secretary to a statutory committee if that person is a member of the Council.

(3) A person who acts as secretary to the Investigating Committee in relation to a fitness to practise allegation must not act as secretary to the Fitness to Practise Committee in any proceedings before the Fitness to Practise Committee in connection with that allegation.

(4) The secretary to a statutory committee is to be responsible for the administrative arrangements relating to the proceedings of that committee.

(5) The secretary to a statutory committee must, in consultation with the chair of the relevant statutory committee, select the legal, clinical and specialist advisers to advise the committee, as required in any particular case.

(6) The secretary to a statutory committee must keep a record, or ensure a record is kept, of all decisions made by the statutory committee and the reasons for them.

(7) The secretary to a statutory committee may not participate in the decision making of the statutory committee (and is not entitled to vote).

✓ Law In Force

18.— Composition of statutory committees: general

(1) Subject to any determination made under rule 18A (or 18B(1) in respect of any particular meeting or hearing, the quorum for a meeting (other than a case management meeting) or a hearing of a statutory committee is three members.

(2) The members must include—

- (a) the chair or a deputy chair;
- (b) a lay member; and
- (c) a registrant member.

(3) At any meeting or hearing of a statutory committee, the number of registrant members considering a case must not exceed the number of lay members (including any chair or deputy chair) by more than one.

(4) Case management meetings of the statutory committees are to be conducted by the chair of the statutory committee which is holding the case management meeting.

✓ Law In Force

18A.— Composition of Fitness to Practise Committee: further provision

(1) The chair of the Fitness to Practise Committee may, having consulted the secretary of the Committee, and with regard to—

- (a) the matters to be considered by the Committee; and
- (b) the availability, experience and expertise of Committee members,

determine the particular size, composition and quorum of the Committee required for each hearing and any related meeting (other than any case management meeting).

(2) Where the chair determines that only specified members of the Committee are required for a particular hearing and any related meeting, the chair must ensure that—

- (a) the chair or a deputy chair is one of those members;
- (b) the quorum is not less than three;
- (c) the number of registrant members who are members of that formation of the Committee does not exceed the number of lay members (including any chair or deputy chair) by more than one; and
- (d) any member who has sat in a formation of the Committee that has made an interim suspension order or an order for interim conditional entry in a particular case does not sit in subsequent proceedings in that case.

(3) Paragraph (2)(d) does not apply where the subsequent proceedings are held solely for the purposes of determining under article 56 of the Order whether to confirm, vary, replace or revoke an interim suspension order or an order for interim conditional entry.

✓ Law In Force

18B.— Composition of Appeals Committee: further provision

(1) The chair of the Appeals Committee may, having consulted the secretary of the Committee, and with regard to—

- (a) the decision appealed against and the matters set out in the Notice of Appeal; and

(b) the availability, experience and expertise of Committee members, determine the particular size, composition and quorum of the Committee required for each hearing and any related meeting (other than any case management meeting).

(2) Where the chair determines that only specified members of the Committee are required for a particular hearing and any related meeting, the chair must ensure that—

(a) the chair or a deputy chair is one of those members;

(b) the quorum is not less than three; [...]⁵¹

(c) the number of registrant members who are members of that formation of the Committee does not exceed the number of lay members (including any chair or deputy chair) by more than one [; and]⁵²

[(d) any member who has sat in a formation of the Fitness to Practise Committee that has given advice on, or made findings of fact in relation to, a particular matter does not sit in a formation of the Appeals Committee that hears an appeal in proceedings connected with that matter.]⁵²

✔ Law In Force

19.— Provisions against bias

(1) No member of a statutory committee (or a formation of a statutory committee) may sit as a member considering a particular case, at any stage of the proceedings relating to that case, if that member has an actual, or potential, conflict of interest in relation to that case.

(2) The Registrar must establish, maintain and publish a register of the private interests of all members, including chairs and deputy chairs, of the statutory committees.

(3) Each member of the statutory committees must notify the Registrar immediately of any private interest that the member has not previously notified to the Registrar but which may need to be recorded in the register maintained under paragraph (2).

✔ Law In Force

20.— Voting

(1) Decisions of a statutory committee must be taken by a simple majority of the members, with the chair not having a casting vote.

(2) If a member of a statutory committee abstains from a vote at a meeting or hearing of a statutory committee, the member's abstention must be treated as a vote against the motion that has been put to the vote.

(3) Where the Fitness to Practise Committee is considering pursuant to article 54(1) of the Order whether or not a person's fitness to practise is impaired, a tied vote is to be treated as a determination that the person's fitness to practise is not impaired.

] ⁵⁰

PART 6

Advisers and their Advice

✓ Law In Force

21.— Functions of legal advisers

- (1) A legal adviser—
- (a) [...] ⁵³
 - (b) may be present at any [...] ⁵⁴ hearing before, or meeting of, a statutory committee, at the request of the chair or secretary of that statutory committee; and
 - (c) may be present at any other meeting of, or hearing before, a committee of the Council which is not a statutory committee, at the request of the Registrar.
- (2) The function of the legal adviser who is present at a meeting or hearing referred to in [paragraph (1)(b)] ⁵⁵ is to ensure that proceedings before the statutory committee are conducted fairly.
- (3) The legal adviser who is present at a meeting or hearing referred to in paragraph (1) must—
- (a) advise the committee on questions of law that are referred to the legal adviser by members of the committee;
 - (b) intervene to advise the committee on an issue of law where it appears to the legal adviser that, without the legal adviser's intervention, there is a possibility of an error of law being made;
 - (c) inform the committee immediately of any irregularity in the conduct of proceedings before it; and
 - (d) at the request of the chair, advise the committee on the structure, format and presentation of the reasons for a decision of that committee.
- (4) [...] ⁵⁶
- (5) At the request of the chair, the legal adviser who is present at a meeting or hearing of a committee referred to in paragraph (1) may be present during the private deliberations of a committee, but must not participate in the decision making of the committee (and is not entitled to vote).

✓ Law In Force

22.— Functions of clinical advisers

- (1) A clinical adviser—
- (a) must be present at any meeting of the Investigating Committee at which a decision is to be taken as to whether or not to refer a case to the Fitness to Practise Committee where the health of the person who is the subject of the case is to be, or is likely to be, considered;
 - (b) may be present at any other meeting of the Investigating Committee where health related issues are to be, or are likely to be, considered;
 - (c) must be present at any meeting of, or hearing before, the Fitness to Practise Committee where health related issues are to be, or are likely to be, considered;
 - (d) may be present at any meeting of, or hearing before, the Appeals Committee at which health related issues are to be, or are likely to be, considered; and

- (e) may be present at any meeting of, or hearing before, a committee of the Council which is not a statutory committee at which health related issues are to be, or are likely to be, considered by that committee.
- (2) The function of the clinical adviser who is present at a meeting or hearing referred to in paragraph (1) is to—
- (a) advise the committee on any issues within the clinical adviser's areas of medical expertise that may be referred to the clinical adviser by a member of that committee; and
- (b) intervene to advise the committee on an issue where it appears to the clinical adviser that, without the clinical adviser's intervention, there is a possibility of an error being made.
- (3) A clinical adviser who is present at a meeting or hearing referred to in paragraph (1)(c) or (d) must not be present during the private deliberations of the committee.
- (4) A clinical adviser must not participate in the decision making of any committee (and is not entitled to vote).

✓ Law In Force

23.— Functions of specialist advisers

- (1) A specialist adviser—
- (a) may be present at any meeting of the Investigating Committee at which issues falling within the specialist adviser's specialty, or related to it, are under consideration by the Committee;
- (b) may be present at any meeting of, or hearing before, the Fitness to Practise Committee at which issues falling within the specialist adviser's specialty, or related to it, are under consideration by the Committee;
- (c) may be present at any meeting of, or hearing before, the Appeals Committee at which issues falling within the specialist adviser's specialty, or related to it, are under consideration by the Committee; and
- (d) may be present at any meeting of, or hearing before, a committee of the Council which is not a statutory committee at which issues falling within the specialist adviser's specialty, or related to it, are under consideration by that committee.
- (2) The function of a specialist adviser at a meeting or hearing referred to in paragraph (1) is to advise the committee on issues within the specialist adviser's areas of expertise that may be referred to the specialist adviser by a member of that committee.
- (3) A specialist adviser who is present at a meeting or hearing referred to in paragraph (1)(b) or (c) must not be present during the private deliberations of the committee.
- (4) A specialist adviser must not participate in the decision making of any committee (and is not entitled to vote).

✓ Law In Force

24.— Requirement to give or repeat advice in public

- (1) Subject to paragraphs (2) and (3), any advice tendered by a legal, clinical or specialist adviser at a meeting or hearing must be tendered in the presence of every party, or person representing a party, in attendance at the meeting or hearing.

- (2) The requirement in paragraph (1) does not apply to meetings of the Investigating Committee.
- (3) Where a statutory committee, or another committee of the Council which is not a statutory committee, has begun to deliberate on its decision and needs to obtain advice in the course of its deliberations, a legal adviser may tender advice to the committee notwithstanding the absence of the parties or any person representing a party.
- (4) Where advice is tendered in the absence of the parties or their representatives in accordance with paragraph (3)—
- (a) the legal adviser must repeat the advice tendered to the committee before the parties, or any person representing a party, in attendance at the hearing; and
 - (b) the parties or their representatives in attendance at the hearing must be provided with a reasonable opportunity to comment on the advice given by the legal adviser, before the committee makes its decision on the issue under consideration.

✓ Law In Force

25.— Requirement to keep records of advice and interventions

- (1) The secretary to a statutory committee must keep a record of any advice tendered to the committee by the legal, clinical or specialist adviser to that committee.
- (2) The secretary to a statutory committee must keep a record of any interventions made by the legal adviser during the private deliberations of that committee.
- (3) A record of any advice tendered by the legal, clinical or specialist adviser must be sent to the parties to the proceedings (that is, the Council and the appellant or person concerned, as the case may be) or their representatives, as appropriate, as soon as practicable after it has been tendered.

✓ Law In Force

26. Refusal by a statutory committee to accept advice

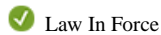
Where any advice tendered by the legal, clinical or specialist adviser to a statutory committee is not accepted by that committee—

- (a) the chair of the committee must announce the reasons for not accepting the advice tendered; and
- (b) the secretary to the committee must—
 - (i) keep a record of the advice tendered, and the reasons why the committee refused to accept that advice, and
 - (ii) send a copy of the record of the advice tendered and the reasons why the committee refused to accept that advice, to the parties to the proceedings (that is, the Council and the appellant or person concerned, as the case may be) or their representatives, as appropriate.

✓ Law In Force

27. Questioning of witnesses

A legal, clinical or specialist adviser advising a committee in accordance with these Rules may, with the permission of the chair of that committee, question any witnesses appearing before the committee.



Law In Force

Given under the official seal of the General Pharmaceutical Council this 3rd day of June 2010

Robert Nicholls CBE

Chair

Duncan Rudkin

Chief Executive

Notes

- ¹ These Rules are scheduled to S.I. 2010/1614.
- ² Definition revoked in rule 2 by Health and Social Care Act 2012 (Consequential Amendments - the Professional Standards Authority for Health and Social Care) Order 2012/2672 art.3(2)(a) (December 1, 2012 immediately after the coming into force of 2012 c.7 s.222)
- ³ 1968 c.67. Part 4 of the Act is amended by paragraph 1(8) of Schedule 4 to S.I. 2010/231.
- ⁴ Definition inserted in rule 2 by Health and Social Care Act 2012 (Consequential Amendments - the Professional Standards Authority for Health and Social Care) Order 2012/2672 art.3(2)(b) (December 1, 2012 immediately after the coming into force of 2012 c.7 s.222)
- ⁵ These Rules are scheduled to S.I. 2010/1617.
- ⁶ S.I. 1978/1908 (N.I. 27).
- ⁷ Word inserted in Rule 3(1)(b) by Rule 4(2)(a) (as set out in SI 2012/3171 Sch.1) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)
- ⁸ Rule 3(1)(c) inserted by Rule 4(2)(b) (as set out in SI 2012/3171 Sch.1) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)
- ⁹ Rule 3(1)(d) revoked by Rule 4(2)(c) (as set out in SI 2012/3171 Sch.1) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)
- ¹⁰ Rule 3(2)(b) substituted by Rule 4(3)(a) (as set out in SI 2012/3171 Sch.1) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)
- ¹¹ Rule 3(2)(c) substituted by Rule 4(3)(b) (as set out in SI 2012/3171 Sch.1) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)
- ¹² Rule 3(2)(d) revoked by Rule 4(3)(c) (as set out in SI 2012/3171 Sch.1) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)
- ¹³ Word inserted in Rule 3(3)(b) by Rule 4(4)(a) (as set out in SI 2012/3171 Sch.1) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)
- ¹⁴ Rule 3(3)(c) substituted by Rule 4(4)(b) (as set out in SI 2012/3171 Sch.1) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)
- ¹⁵ Rule 3(3)(d) revoked by Rule 4(4)(c) (as set out in SI 2012/3171 Sch.1) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)
- ¹⁶ Rule 3(3A) inserted by Rule 4(5) (as set out in SI 2012/3171 Sch.1) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)
- ¹⁷ Rule 4(1)(a) revoked by Rule 5(2)(a) (as set out in SI 2012/3171 Sch.1) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)
- ¹⁸ Rule 4(1)(b) substituted by Rule 5(2)(b) (as set out in SI 2012/3171 Sch.1) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)
- ¹⁹ Rule 4(1)(e) substituted by Rule 5(2)(c) (as set out in SI 2012/3171 Sch.1) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)
- ²⁰ Rule 4(2) revoked by Rule 5(3) (as set out in SI 2012/3171 Sch.1) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)

- 21 Rule 5(ab) inserted words substituted by Sch.1 para.6(2) (as set out in SI 2011/1367 Sch.1) by General Pharmaceutical Council (Continuing Professional Development and Consequential Amendments) Rules Order of Council 2011/1367 Sch.1 para.1 (July 2, 2011)
- 22 Rule 5(b) substituted by Rule 6(a) (as set out in SI 2012/3171 Sch.1) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)
- 23 Rule 5(d) substituted by Rule 6(b) (as set out in SI 2012/3171 Sch.1) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)
- 24 Rule 11 substituted by Rule 10 (as set out in SI 2012/3171 Sch.1) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)
- 25 S.I. 2007/1351 (N.I. 11).
- 26 1986 c.45. Schedule 4A was inserted by section 257(2) of, and Schedule 20 to, the Enterprise Act 2002 (c.40).
- 27 S.I. 1989/2405 (N.I.19); Schedule 2A was inserted by S.I. 2005/1455 (N.I. 10).
- 28 1985 c.66. Sections 56A to 56K were inserted by section 2(1) of the Bankruptcy and Diligence etc. (Scotland) Act 2007 (asp 3).
- 29 1986 c.45. Part VIIA was inserted by section 108(1) of, and Schedule 17 to, the Tribunals, Courts and Enforcement Act 2007 (c.15) (“the 2007 Act”); Schedule 4ZB was inserted by section 108(2) of, and Schedule 19 to, the 2007 Act.
- 30 S.I. 1989/2404 (N.I. 18).
- 31 S.I. 2002/3150 (N.I. 4); the relevant amending instrument is S.I. 2005/1454 (N.I. 9).
- 32 Section 429(2) was amended by section 269 of, and paragraphs 1 and 15 of Schedule 23 to, the Enterprise Act 2002 (c.40).
- 33 1990 c.40; section 7 was repealed by the Charities and Trustee Investment (Scotland) Act 2005 (asp 10).
- 34 Rule 13(1) substituted by Rule 11(2) (as set out in SI 2012/3171 Sch.1) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)
- 35 Rule 13(1A)-(1B) inserted by Rule 11(3) (as set out in SI 2012/3171 Sch.1) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)
- 36 Rule 13(3) substituted by Rule 11(4) (as set out in SI 2012/3171 Sch.1) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)
- 37 Rule 13(4)-(5) revoked by Rule 11(5) (as set out in SI 2012/3171 Sch.1) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)
- 38 Rule 13(7) substituted by Rule 11(6) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)
- 39 Rule 13(8) inserted by Rule 11(7) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)
- 40 Words substituted in Rule 14(1)(a) by Rule 12(2)(a) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)
- 41 Words inserted in Rule 14(1)(b) by Rule 12(2)(b) (as set out in SI 2012/3171 Sch.1) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)
- 42 Words substituted in Rule 14(1)(d)(i), (ii) and (vii) by Rule 12(2)(c)(i) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)
- 43 Words substituted in Rule 14(1)(d)(iv) by Rule 12(2)(c)(ii) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)
- 44 The guidance can be found on the Council’s website at www.pharmacyregulation.org.
- 45 Rule 14(5) substituted by Rule 12(3) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)
- 46 Words substituted in Rule 16(2) by Rule 13(2) (as set out in SI 2012/3171 Sch.1) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)

- ⁴⁷ Rule 16(3A) inserted by Rule 13(3) (as set out in SI 2012/3171 Sch.1) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)
- ⁴⁸ Word inserted in Rule 16(4) by Rule 13(4)(a) (as set out in SI 2012/3171 Sch.1) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)
- ⁴⁹ Rule 16(4)(b) revoked by Rule 13(4)(b) (as set out in SI 2012/3171 Sch.1) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)
- ⁵⁰ Rules 18A-18B inserted by Rule 16 (as set out in SI 2012/3171 Sch.1) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)
- ⁵¹ Word revoked in rule 18B(2)(b) by rule 2(a) (as set out in SI 2010/1616 Sch.1) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2016/1008 Sch.1 para.1 (November 21, 2016)
- ⁵² Rule 18B(2)(d) inserted by rule 2(b) (as set out in SI 2010/1616 Sch.1) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2016/1008 Sch.1 para.1 (November 21, 2016)
- ⁵³ Rule 21(1)(a) revoked by Rule 17(2)(a) (as set out in SI 2012/3171 Sch.1) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)
- ⁵⁴ Word revoked in Rule 21(1)(b) by Rule 17(2)(b) (as set out in SI 2012/3171 Sch.1) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)
- ⁵⁵ Words substituted in Rule 21(2) by Rule 17(3) (as set out in SI 2012/3171 Sch.1) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)
- ⁵⁶ Rule 21(4) revoked by Rule 17(4) (as set out in SI 2012/3171 Sch.1) by General Pharmaceutical Council (Amendment of Miscellaneous Provisions) Rules Order of Council 2012/3171 Sch.1 para.1 (February 5, 2013)

Commencement

Sch. 1 para. 1: September 27, 2010

Extent

Sch. 1 para. 1: Great Britain

EXPLANATORY NOTE

(This note is not part of the Order)

This Order approves The General Pharmaceutical Council (Statutory Committees and their Advisers) Rules 2010 (“the Rules”) made by the General Pharmaceutical Council (“the Council”) under the Pharmacy Order 2010 (S.I. 2010/231). The Rules set out various matters relating to the constitution and composition of the three statutory committees of the Council (the Investigating Committee, the Fitness to Practise Committee and the Appeals Committee), and to the functions of advisers to the statutory committees and other committees of the Council.

Part 1 deals with preliminary matters, including commencement and interpretation and Part 2 sets out the composition of the statutory committees.

Part 3 confers additional functions on the Investigating Committee and the Fitness to Practise Committee. The additional functions of the Investigating Committee include the provision of an annual report to the Council, and the consideration and determination of various matters relating to allegations that have been referred to it. The additional functions of the Fitness to Practise Committee include the provision of advice to the Registrar, Appeals Committee and Investigating Committee on various matters.

Part 4 deals with matters relating to the appointment and removal of statutory committee members, and sets out a number of categories of person who will not be eligible for appointment as a statutory committee member. It provides that an Appointments Committee set up by the Council under its powers in article 4(7) of the Pharmacy Order 2010 is to be responsible for selecting and appointing, suspending and removing from office, and overseeing training, development and appraisal for chairs, deputy chairs and other members of statutory committees. Provision is made in respect of statutory committee members about their required competencies; the standards and attendance at meetings, hearings and training expected of them; their term of office; the procedure for resignation from office; and the circumstances in which the Appointments Committee may suspend or remove them from office. Provision is also made about how vacancies on a statutory committee are to be filled (including provision requiring the Appointments Committee to maintain a reserve list of statutory committee members) and providing a power for the chair of a statutory committee to co-opt members.

Part 5 contains provisions relating to meetings and hearings of the statutory committees, including a requirement for each statutory committee to have a secretary. Provision is made about the quorum of the statutory committees, and there is a requirement that at meetings or hearings of the statutory committees, the professional members should not be in a majority of more than one. There are also special arrangements relating to the composition of the Fitness to Practise Committee in certain circumstances. Additionally, there are provisions against bias and which set out that voting will be by simple majority.

Part 6 deals with the functions of legal, clinical and other specialist advisers to both statutory committees and other committees of the Council. There are requirements relating to the manner in which advice is to be tendered and recorded, and to the announcing and recording of decisions not to accept advice from professional advisers. Professional advisers are also given the power, with the permission of the chair of the relevant committee, to question witnesses.

Table of Contents

| | |
|---|------------------|
| General Pharmaceutical Council (Statutory Committees and their Advisers Rules) Order of Council 2010/1616..... | <u>1</u> |
| Preamble | <u>1</u> |
| ✔ para. 1 | <u>1</u> |
| ✔ Signatures | <u>2</u> |
| Schedule 1 | <u>2</u> |
| ✔ para. 1 | <u>2</u> |
| Explanatory Note | <u>20</u> |
| para. 1 | <u>20</u> |
| Table of Contents..... | <u>22</u> |