

Annex C – Consequential Alterations

1. The following consequential alterations are proposed to accommodate changes to The Disciplinary Tribunals Regulations 2014:

Contents

2. Removal of reference to Part 5.C from the contents on page 5.

Part 1 Introduction

A. General

A3. Amendments to the Handbook

3. Removal of r13 “*Any amendments to Section 5.C must be made in accordance with the requirements of that Section*” on page 13.

C. Commencement and Transitional Provisions

4. Amendment of r14.1 to read “*a matter is being dealt with under The Disciplinary Tribunal Regulations 2014 as at [implementation date]; or*” on page 17.

Part 2 The Code of Conduct

C. The Conduct Rules

C4. You and your regulator

5. Removal of reference to “*the Visitors*” from rC64.2 on page 52.

Part 5 Enforcement Regulations

A. The Complaints Regulations

A4. Possible outcomes of an investigation of a complaint under Section 5.A3

6. Amendment of rE50 to read “*Pursuant to rE37.3 above and rE66A below, the PCC may impose an administrative sanction on a BSB regulated person only where*” on page 180.
7. Removal of rE59.3 “*any deferred sentence which would be activated if the relevant person were to be found guilty of the charges alleged*” on page 180.
8. Amendment of rE66A to read “*Where a Disciplinary Tribunal directs that matter(s) be referred to the Professional Conduct Committee under rE209 to consider whether an administrative sanction should be imposed, the PCC shall consider the matter in accordance with rE50-55 or dismiss the complaint in accordance with rE37.1/37.2*” on page 182.

A5. Determination by consent

9. Removal of rE69.2.e.ii “*any deferred sentences which would be activated if the breach or breaches were proved,*” on page 183.

10. Removal of rE79 “Where a sanction imposed by the PCC includes a fine, that element of the sentence may be directed by the PCC to have deferred effect. A sentence may be deferred for a period which is no less than six months and no more than two years long (the “period of deferral”)” on page 184.
11. Amendment of rE80 to read “A deferred sentence, imposed prior to [implementation date], is liable be activated where the relevant person is later found (whether during the period of deferral or afterwards) to have committed professional misconduct during the period of deferral” on page 184.

Part 6 Definitions

12. Removal of definition 6 “Answer: in Part 5, means any document served in accordance with Regulation E240” on page 260.
13. Removal of definition 39 “BSB Representative: means a person or persons appointed by the Bar Standards Board in accordance with Regulation E103 following a referral of a matter by the PCC to a Disciplinary Tribunal” on page 263.
14. Alteration of definition 54 to read “Convening Order: means the Order described in Rule E132.c” on page 264.
15. Removal of definition 64 “Defendant: in Section 5.B means the relevant person who is the subject of the disciplinary charge or charges brought before a Disciplinary Tribunal and/or of a disqualification application made to the Disciplinary Tribunal under the Complaints Regulations and in Section 5.D means the relevant person against whom the Bar Standards Board is considering taking interim action in accordance with Section 5.D” on page 265.
16. Alteration of definition 74 “Disciplinary Tribunal: means a Tribunal convened pursuant to rE132 of the Disciplinary Tribunal Regulations 2016 to consider an allegation of professional misconduct against a BSB regulated person (for which the sanctions may include disqualification, where Part 5 so provides) and/or to consider an application for disqualification against a relevant person” on page 266.
17. Removal of definition 102 “Hearings Before the Visitors: means an appeal hearing constituted under Section 3.V” on page 269.
18. Addition of definition 116A “(116A) Judge For the purposes of rE140 and rE141, a Judge includes:
 - .1 a puisne judge of the High Court;
 - .2 a judge of the Court of Appeal;
 - .3 a Circuit judge;
 - .4 a Recorder who has been authorised to sit as a judge of the High Court under section 9(1) of the Supreme Court Act 1981;
 - .5 a deputy judge of the High Court appointed under section 9(4) of the Supreme Court Act 1981; and
 - .6 a person who has been a judge of the Court of Appeal, or a puisne judge of the High Court, or a Circuit Judge, provided that he remains permitted by virtue of section 9 of the Supreme Court Act 1981 to be requested to act as a judge of the High Court, or is eligible for appointment as a deputy Circuit judge under section 24 of the Courts Act 1971” on page 270.

19. Amendment of definition 154 "*Period of Deferral: A sentence imposed prior to xxxx that was deferred for a period no less than six months and no more than two years long*" on page 274.
20. Removal of definition 156 "*Petition: In Part 5 means the petition of appeal served pursuant to Rule E236.1*" on page 274.
21. Removal of definition 203 "*Respondent: In Part 5 means the person with an interest in upholding a relevant decision, being:*
 - (a) *in the case of an appeal by the BSB against a decision of a*
 - (b) *Disciplinary Tribunal, the defendant;*
 - (c) *in all other cases, the BSB*" on page 279
22. Amendment of definition 219 "*Suspended or Suspension: means to suspend the practising certificate, licence or authorisation of a BSB authorised person, either generally or in respect of any separate authorisation that person may have to conduct litigation or to carry out public access work which power when exercised on an interim basis, shall be exercised in accordance with Section 5.D and when exercised in fitness to practise proceedings shall be exercised in accordance with Section 5.E.*" on page 280.
23. Removal of definition 227 "*The Visitors: means, in respect of appeals made before 7 January 2014, the panel nominated to hear an appeal pursuant to Rule E244.1 or, in the case of an appeal within Rule E244.3 to E244.5 the single judge nominated to hear the appeal*" on page 281.