

Direction 172 issued under Part 3 of Schedule 4 to the Legal Services Act 2007 to the ICAEW

1. This is a direction issued pursuant to paragraph 19(3) of Schedule 4 to the Legal Services Act 2007 (the Act).
2. Unless stated otherwise, words in this direction are used as they are defined in the Act.
3. In accordance with paragraph 19(3) of Schedule 4 to the Act, the Board has directed that the following alterations by the ICAEW to its regulatory arrangements be treated as exempt alterations for the purposes of paragraph 19(2)(c) of Schedule 4:

Amendments to Appeal Committee Regulations
Amendments to Fitness Committee Regulations

Exempt alterations

4. The following alterations to the *Appeal Committee Regulations* are exempt:
 - (a) Amendments to ensure that the appeal process is fair, efficient and transparent by:
 - i. clarifying the circumstances in which new evidence may be admitted at an appeal committee hearing; and
 - ii. enabling the panel to correct minor administrative errors in line with the 'slip rule' in the Civil Procedure Rules 40.12;
 - (b) Updating cross references;
 - (c) Making changes which do not impact on probate practitioners; and
 - (d) Making minor drafting changes to aid clarity.
5. The following alterations to the *Fitness Committee Regulations* are exempt:
 - (a) Updating cross references;
 - (b) Making drafting changes to align with internal governance changes;
 - (c) Making minor drafting changes to aid clarity; and
 - (d) Making amendments to make rules that are more inclusive.
6. A non-exhaustive list of the exempt alterations to the regulations is set out in the table below. Please note that the reference numbers are as amended by the regulations:

Appeal Committee Regulations	
Regulation	Change
Regulation 1	a cross-reference has been updated
Regulation 1	Delete '15 October 2018'. Add 'They apply to any matters where the notice of appeal was received by ICAEW on or after that date.
Regulation 2 b. a)	'Investigation Committee' replaced by 'Disciplinary Committee' 'intervention order' replaced by 'interim orders' 'member' replaced by 'respondent'
Regulation 2.e	Delete 'e. – contracted firm has the meaning set out in Disciplinary Bye law 1.2'
Regulation 2.g	Delete 'g. – Member firm has the meaning set out in Disciplinary Bye law 1.2'
Regulation 2.g 1.	'Investigation Committee' replaced by 'Disciplinary Committee' 'intervention order' replaced by 'interim order'
Regulation 2.h	'appointed under' replaced by 'convened in accordance with'

Regulation 2.i	Delete 'I. – Regulated firm has the meaning set out in Disciplinary Bye law 1.2'
Regulation 2.j	'Investigation Committee' replaced by 'Disciplinary Committee' 'intervention cases' replaced by 'interim orders' 'the investigation' committee replaced by 'ICAEW'
Regulation 3	Delete 'the investigation Committee (interim Orders only)'
Regulation 4	a cross-reference has been updated
Section headline	'28 day-time' replaced by 'prescribed'
Regulation 12	'After the expiry of 28 days beginning with the date of service of the tribunal's written record of decision on the parties under Disciplinary Bye-law 26.1 (which will include notice of appeal under Disciplinary Bye-law 31.1), and in the case of appeals in readmission or re-registration cases after the expiry of 28 days from the date on which written reasons for refusal were served under regulation 10 of the Membership Regulations or regulation 25 of the Foundation Qualification Regulations an application for permission to serve notice of appeal shall:' Is replaced by: 'After the expiry of the time limit permitted for service of notice of appeal under Disciplinary Bye-law 26.1 or 31.1, or the relevant provisions of the Audit Regulations, the DPB (Investment Business) Handbook, the Insolvency Licensing Regulations, the Membership Regulations or the Foundation Qualification Regulations, an application for permission to serve notice of appeal shall:'
Regulation 12.1	Delete 'of 28 days'
Regulation 17 a.	Add 'and in readmission and re-registration cases' 'Interim orders' replaces 'interventions'
Regulation 17 b.	Add 'and in readmission and re-registration cases'
Regulation 17 b. i.	Delete 'in respect of which permission has been given or' Add "in respect of which permission has been given at the hearing subject to regulation 17A
Regulation 17.b.ii	Delete 'in respect of which permission has been given or' Add "in respect of which permission has been given at the hearing subject to regulation 17A
Regulation 17A	Insert new regulation 17A: ' In determining whether any further witness or documentary evidence should be admitted at the hearing, the panel shall have regard to the following factors: a. the relevance of the new evidence to the issues to be determined by the panel; b. the extent to which the party seeking to rely on the new evidence could reasonably have been expected to have identified and adduced the evidence at an earlier stage in proceedings; and c. the extent to which the relevance and probative value of the evidence outweighs the prejudice that may be caused to the other party by admitting the new evidence at the hearing.'

Regulation 24	‘Any notice or document may be served by an appellant or a responding party personally or by sending the notice or document addressed to the PCD Committee Secretary, Professional Conduct Department, ICAEW, Metropolitan House, 321 Avebury Boulevard, Milton Keynes MK9 2FZ by first class post. Any notice or document required to be served on the appellant or responding party may be served personally or by first class post to the party at their last known place of business appearing in the register or their last known home address. Where documents are served by post, service is deemed to have been effected 48 hours after posting.’ Is replaced by: ‘Any notice or document required to be served under these regulations may be served in person or by pre-paid post or email in accordance with the procedure set down in Disciplinary Bye-laws 1.6 – 1.8. Any notice or document required to be served on ICAEW may be delivered to the PCD Committee Secretary, Professional Conduct Department, ICAEW, Metropolitan House, 321 Avebury Boulevard, Milton Keynes MK9 2FZ.’
Regulation 33	Delete ‘from the Investigation Committee (Intervention Orders only)’
Regulation 34	‘The panel may of its own volition or upon application by either party, review any order made by it and may on such review revoke or vary that order on the grounds that: i. the order was wrongly made as a result of an error on the part of the panel, ICAEW staff or either party, or ii. a party did not receive proper notice of the proceedings leading to the order.’ Is replaced by: ‘The panel Chair may of his or her own volition, or upon application by either party, review any order made by the panel or the record of decision and may, on such review, correct any accidental slip or omission in the order or record of decision that does not accurately reflect the findings, reasoning and/or orders of the panel. ‘
Regulation 35	Cross reference updated Delete ‘Where at least one of the grounds in (a)(i) and (ii) above apply, the panel may direct that an appeal should be re-heard by a new panel of the Appeal Committee constituted under Disciplinary Bye-law 27.1.’
Regulation 37	Cross reference updated
Regulation 38	Cross reference updated
Regulation 39	Cross reference updated ‘Preferral’ replaced by ‘referral’
Regulation 44	Cross reference updated

Fitness Committee Regulations	
Regulation	Change
Guidance	Cross reference updated ‘his/her’ replaced by ‘their’

Regulation 1	'These regulations are made by the Council of ICAEW under Clause 16 of the Supplemental Charter of 1948 and Principal Bye-law 49(a). They come into force on 1 June 2018.' Is replaced by 'These regulations are made by the Fitness Committee in accordance with paragraph 6.4 of the Schedule to the Disciplinary Bye-laws. The regulations came into force on 2 November 2016 and were amended on 1 June 2018 and, most recently, on [TBC].'
Regulation 2	Delete 'other person'
Regulation 4.g	Cross reference updated 'his/her' replaced by 'their'
Regulation 4.i	Cross reference updated
Regulation 4.l	'Convened' replaces 'Appointed' Cross reference updated 'his/her' replaced by 'their'
Regulation 4.m	'relevant appointments body' replaces '(or its predecessor body) Regulatory Appointments Panel' Cross reference updated
Regulation 9	'his/her' replaced by 'their'
Regulation 10	'he/she' replaced by 'they' Cross reference updated
Regulation 11	'his/her' replaced by 'their'
Regulation 12	'his/her' replaced by 'their'
Regulation 13	Add 'a member'
Regulation 14	'he/she appears by his/her' replaced by they are represented by their
Regulation 15	his/her' replaced by 'their'
Regulation 16	Cross reference updated
Regulation 18	Cross reference updated
Regulation 21	'His/her' replaced by 'their' Cross reference updated
Regulation 24	Cross reference updated
Regulation 25	Cross reference updated

Reason for exemption direction

7. The amendments to the *Appeal Committee Regulations* and amendments to the *Fitness Committee Regulations* do not represent a change in regulatory policy or approach and do not have an adverse impact on the regulatory objectives.
8. A copy of the amended regulatory arrangements was submitted to the Board on 19 April 2021.
9. This direction is to be deemed made on and to be effective from 30 June 2021.

For and on behalf of the Legal Services Board
30 June 2021