



THE INSTITUTE OF CHARTERED ACCOUNTANTS OF SCOTLAND

PUBLIC PRACTICE REGULATIONS

9 JULY 2019

INDEX

Council, in terms of Rules 5.2, 7, 11.11.5 and 12.4 of the ICAS Rules hereby makes the following Regulations.

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1. GENERAL

Citation and commencement

- 1.1 These Regulations may be cited as the ICAS Public Practice Regulations and shall come into force on 9 July 2019.

Definitions

- 1.2 In these Regulations words and phrases have the same meaning as in the ICAS Rules and, unless the context requires otherwise:

Adverse Decisions – a decision of the Committee as defined in Regulation 5.10.

Approved Practical Experience – experience of accountancy or related services, as further defined in Regulation 3.9.

Committee – the committee established under Regulation 2.1.

Exemption – an exemption from the requirement to hold a Practising Certificate granted under Regulation 3.13.

Firm – a body corporate, a partnership, a limited liability partnership or an unincorporated practice which contains one or more Members in Practice.

Hearing – a hearing in respect of a proposed Adverse Decision or an order of suspension under Regulation 5.3.

Institutes – ICAS, ICAEW and Chartered Accountants Ireland.

Practice – the conditions which require a Member to hold a Practising Certificate, as further defined in Regulations 3.2 and 3.4.

Practising Certificate – a certificate issued by ICAS to enable a Member to Practice.

Practice Monitoring – the regulatory inspection programme which seeks to uphold and improve standards of those Members who hold a Practising Certificate.

Regulatory Penalty – a penalty applied by the Committee in accordance with Regulation 5.23.

Sub-Committee – means no fewer than three members of the Committee appointed under these Regulations, comprised of not less than one-third Members and/or one-third Lay Members.

Notices

- 1.3 Any notice or other document to be sent under these Regulations shall be delivered electronically, by hand or by post. It must be sent to the address that the Member, CA Student Member, Affiliate or Firm has given to ICAS for this purpose. Delivery shall be deemed to have occurred:
- 1.3.1 for emails, facsimile, and other electronic means when sent;
 - 1.3.2 by hand, when delivered; and
 - 1.3.3 by post 48 hours after posting.
- 1.4 Any reference to legislation, rules, regulations, schemes or other documents will apply to any re-enactment, re-issue or amendment.

2. THE COMMITTEE

Constitution and composition

- 2.1 The Regulation Board shall establish a committee comprised of a Convener and three or more other persons, to exercise the powers in Regulation 2.11. Not less than one third of the Committee shall comprise Lay Members.
- 2.2 Appointments to the Committee shall be for a term of three years, renewable for one further term of three years at the discretion of the Regulation Board.
- 2.3 The length and number of terms referred to in Regulation 2.2 may be extended or varied in exceptional circumstances at the discretion of the Regulation Board.

Conduct of business

- 2.4 The Committee shall meet a minimum of four times a year.
- 2.5 At meetings of the Committee, three members shall constitute a quorum, of whom one shall be a Member and one shall be a Lay Member. The majority of those present must not be Lay Members.
- 2.6 A meeting of the Committee may be conducted in person, by email, telephone, or other electronic or video conferencing.
- 2.7 The Convener shall, in the case of an equality of votes, have a second or casting vote.

Declaration of interest

- 2.8 Each member of the Committee must declare any interest in any matter before the Committee. A member of the Committee who has declared such an interest shall ensure that he withdraws from any discussion and decision on the matter concerned.

Remuneration

- 2.9 Members of the Committee are entitled to be reimbursed by ICAS for any expenses reasonably incurred in connection with their membership of the Committee.
- 2.10 Lay Members of the Committee are entitled to reasonable remuneration in connection with their membership of the Committee.

Powers

- 2.11 The Committee shall have the power to:
 - 2.11.1 grant a Practising Certificate;
 - 2.11.2 impose conditions or restrictions on a Practising Certificate;
 - 2.11.3 suspend or withdraw a Practising Certificate;
 - 2.11.4 set requirements for Continuing Professional Development for Members holding a Practising Certificate;
 - 2.11.5 monitor the compliance of Members and Firms with any requirement laid down by ICAS;
 - 2.11.6 offer and impose Regulatory Penalties;
 - 2.11.7 make directions and determine all other matters incidental to or arising from the exercise of any such powers delegated by Regulation Board.
- 2.12 The Committee shall exercise the powers of the Regulation Board in respect of the following:
 - 2.12.1 the Professional Indemnity Insurance Regulations;
 - 2.12.2 the Designated Professional Body Handbook;
 - 2.12.3 the AML Regulations;
 - 2.12.4 such other licensing or authorisation schemes as may be directed by the Regulation Board in accordance with Rule 8.

- 2.13 In exercising its powers, the Committee may take into account:
- 2.13.1 any findings under Rule 13;
 - 2.13.2 any information provided by an ICAS Regulatory Committee;
 - 2.13.3 the final report of a Practice Monitoring visit;
 - 2.13.4 any other information which it believes to be relevant.

Delegation of powers

- 2.14 Subject to Regulation 2.15, the Committee may sub-delegate all or any of its powers under Regulation 2.11 to an individual or Sub-Committee on such terms as it may decide.
- 2.15 The powers under the following Regulations shall not be delegated:
- 2.15.1 Regulation 2.11.1;
 - 2.15.2 Regulation 2.11.2;
 - 2.15.3 Regulation 2.11.3;
 - 2.15.4 Regulation 2.11.6.

3. PRACTISING CERTIFICATES

Requirement to hold a Practising Certificate

- 3.1 A Member must hold, or be specifically exempt from holding, a Practising Certificate in order to engage in Practice in the European Economic Area, or in the Channel Islands or the Isle of Man.
- 3.2 Subject to Regulation 3.4, the Committee shall exercise its reasonable discretion in determining whether a Member is engaged in Practice.
- 3.3 In determining whether a Member is engaged in Practice, the Committee shall have regard to such guidance as may be issued by ICAS from time to time.
- 3.4 A Member shall be engaging in Practice if he is:
- 3.4.1 providing accountancy or related services, to persons other than his employer, for a fee; or
 - 3.4.2 a Principal in a Firm providing accountancy or related services.

Validity of a Practising Certificate

- 3.5 A Practising Certificate shall be valid from the date on which it been granted by the Committee under Regulation 2.11.1, or such other date at the Committee may specify.
- 3.6 A Practising Certificate shall cease to be valid on such date as may be determined by the Committee, if:
- 3.6.1 the Member becomes Insolvent in accordance with Rule 3.13;
 - 3.6.2 Membership of ICAS ceases in accordance with the Rules;
 - 3.6.3 the Committee accepts the surrender of the Practising Certificate in accordance with Regulations 3.18 and 3.19;
 - 3.6.4 the Member fails to make payment to ICAS in accordance with Regulation 3.7;
 - 3.6.5 the Committee withdraws the Practising Certificate under Regulation 2.11.3.
- 3.7 A Member shall pay, within the specified timescale, such fee or fees in connection with his Practising Certificate as may be charged by ICAS from time to time.

Requirements for a Practising Certificate

- 3.8 An applicant for a Practising Certificate must satisfy the Committee that he:
- 3.8.1 has the required level of competence and experience for all areas of work to be undertaken whilst engaged in Practice;
 - 3.8.2 shall comply with any additional training requirements deemed appropriate by the Committee;
 - 3.8.3 is a fit and proper person to hold a Practising Certificate;
 - 3.8.4 holds sufficient Professional Indemnity Insurance to comply with the Professional Indemnity Insurance Regulations;

- 3.8.5 has provided the Committee with all information requested in connection with the application;
 - 3.8.6 has obtained not less than two years' appropriate experience, in accordance with Regulation 3.9;
 - 3.8.7 can demonstrate compliance with the Rules and Regulations, as appropriate.
- 3.9 The Committee shall decide what constitutes appropriate experience and in doing so shall have regard to the following:
- 3.9.1 experience gained in a role in accountancy or a related role in public practice, business, public service, or teaching;
 - 3.9.2 experience gained as a Principal in countries where a Practising Certificate is not, or was not previously, required; or
 - 3.9.3 in the case of a Member admitted under reciprocal arrangements with other professional bodies, appropriate experience gained as an employee or as a Principal after the date of admission to the professional body.

Applying for a Practising Certificate

- 3.10 An application for a Practising Certificate shall be:
- 3.10.1 in the form prescribed by ICAS, and shall include such supporting information as may be requested;
 - 3.10.2 submitted on or before any date prescribed by ICAS;
 - 3.10.3 accompanied by payment of the applicable fee.

Consideration of applications

- 3.11 Upon receipt of an application for a Practising Certificate, the Committee may:
- 3.11.1 grant the application;
 - 3.11.2 be minded to reject the application;
 - 3.11.3 be minded to grant the application subject to conditions and/or restrictions; or
 - 3.11.4 request further information from the applicant before taking a decision.
- 3.12 A Member who continues in practice following the cessation of his Practising Certificate under Regulation 3.6 shall be deemed by the Committee to be in breach of these Regulations and Rule 7.1 and shall be referred to the Investigation Committee.

Exemptions

- 3.13 Subject to Regulation 3.14, the Committee may grant a Member an Exemption from the requirement to hold a Practising Certificate.
- 3.14 The Committee shall only grant an Exemption if, having regard to the circumstances of the Member, it is satisfied that granting the Exemption is reasonable and will not result in any undue risk to clients, third parties or the public interest.
- 3.15 On considering whether to grant an Exemption, the Committee shall have regard to such guidance as may be issued by ICAS from time to time.
- 3.16 An Exemption may be subject to such conditions and/or restrictions as the Committee deems appropriate.

Waiver

- 3.17 The Committee may waive the requirements of these Regulations if it considers that:
- 3.17.1 complying with the relevant requirements would be unnecessarily burdensome for a Member or Firm compared to any benefit which compliance might give to clients, third parties or the public interest; and
 - 3.17.2 waiving the requirements of these Regulations will not result in any undue risk to clients, third parties or the public interest.

Surrender of a Practising Certificate

- 3.18 Subject to Regulation 3.19, the Committee may accept the surrender of a Practising Certificate subject to such terms and conditions as it may deem appropriate.

- 3.19 The Committee shall not accept the surrender of a Practising Certificate if it considers that the reputation of ICAS and the public interest would be better served by alternative action under these Regulations.

4. OBLIGATIONS OF MEMBERS AND FIRMS

Cooperation

- 4.1 Members and Firms shall, at all times, cooperate fully and promptly with the Committee and any individuals acting on its behalf in connection with these Regulations.
- 4.2 Upon receipt of a request from the Committee, or an individual acting on its behalf, a Member or Firm shall:
- 4.2.1 provide such information or explanation as requested; and/or
 - 4.2.2 permit the examination of or deliver up such internal processes, books, papers or records as the Committee considers necessary.
- 4.3 The Committee may require a Member to attend a meeting with the Committee on provision of reasonable notice.
- 4.4 The duties and obligations arising under these Regulations shall apply in accordance with the provisions of:
- 4.4.1 Rule 13.3;
 - 4.4.2 Rule 13.4;
 - 4.4.3 Rule 13.8;
 - 4.4.4 Rule 13.9;
 - 4.4.5 Rule 13.10.
- 4.5 A Firm shall ensure that any request under these Regulations is dealt with by the managing partner or such Principal or suitable senior employee as he may nominate.

Change of circumstances

- 4.6 A Member or Firm shall notify the Committee of:
- 4.6.1 any matter affecting or likely to affect the fitness to practice of any Member;
 - 4.6.2 any breach of Rules or Regulations which has been committed, or is likely to be committed, by the Member or Firm;
 - 4.6.3 any change in the name, registered office or trading addresses of a Firm;
 - 4.6.4 any change in the Principals of a Firm;
 - 4.6.5 any significant change to the corporate structure of the Firm.
- 4.7 Notification under Regulation 4.6 shall be provided not less than 10 business days after the matter or change in question.
- 4.8 A Member shall notify the Committee of all entities providing accountancy or related services in which the Member is a Principal.
- 4.9 If a Member or Firms fails to comply with Regulations 4.1 to 4.8 without reasonable excuse, the Committee may refer such Member or Firm to the Investigation Committee.

5. DECISIONS OF THE COMMITTEE

Conditions, restrictions, and withdrawal

- 5.1 The Committee may take the following actions in respect of a Practising Certificate if it is satisfied that one or more of the criteria in Regulation 5.2 applies:
- 5.1.1 application of restrictions and/or conditions; or
 - 5.1.2 withdrawal.

- 5.2 The criteria referred to in Regulation 5.1 are as follows:
- 5.2.1 the Member no longer meets one or more of the requirements of Regulation 3.8;
 - 5.2.2 the Member has not complied with the Rules or Regulations;
 - 5.2.3 the Member has not complied with any regulatory requirements, code of practice, or guidance, whether ethical or technical;
 - 5.2.4 a Practice Monitoring report raises concerns over the quality of the Member's work or level of compliance with regulatory requirements; and/or
 - 5.2.5 the Member has not complied with an existing condition and/or restriction placed on his Practising Certificate.

Suspension

- 5.3 The Committee may immediately suspend a Practising Certificate for a period of not more than sixty days if it considers that the continuation of the Practising Certificate would present an undue risk to clients, third parties or the public interest.
- 5.4 In deciding whether to suspend a Practising Certificate, the Committee may also have regard to the criteria listed in Regulation 5.2.
- 5.5 A Member whose Practising Certificate has been suspended under Regulation 5.3 may apply for a Hearing in accordance with Regulation 15.12.2.
- 5.6 On expiry of the suspension, the Committee may:
- 5.6.1 take no further action;
 - 5.6.2 take action under Regulation 5.1;
 - 5.6.3 refer the Member to the Investigation Committee; and/or
 - 5.6.4 apply for an Interim Order in accordance with Regulation 5.8.
- 5.7 A Member whose Practising Certificate has been suspended under Regulation 5.3 may not engage in Practice during the period of suspension.

Interim Order

- 5.8 The Committee may apply to the Discipline Panel for an Interim Order under Rule 13.18.2 if it considers that such an order would be justified in all the circumstances, having regard to the public interest.

Implementation of decisions

- 5.9 Subject to Regulation 5.10, a decision of the Committee shall come into force immediately, or on such date as may be specified by the Committee.

Adverse Decision

- 5.10 An Adverse Decision is a decision made by the Committee to:
- 5.10.1 reject an application for a Practising Certificate under Regulation 2.11.1;
 - 5.10.2 impose conditions or restrictions on a Practising Certificate under Regulation 2.11.2 and 5.1.1;
 - 5.10.3 withdraw a Practising Certificate under Regulation 2.11.3 and 5.1.2
- 5.11 If the Committee proposes to make an Adverse Decision, it shall first serve notice on the Member or Firm, which notice shall include a note of the reasons in support of the proposed Adverse Decision.
- 5.12 A Member or Firm which does not accept the proposed Adverse Decision may:
- 5.12.1 submit written representations in opposition; or
 - 5.12.2 request a Hearing.
- 5.13 If the Member or Firm does not submit written representations and does not request a hearing in accordance with Regulation 5.12, the proposed Adverse Decision shall come into force upon expiry of ten business days from the date of service of the notice under Regulation 5.11

Written representations

- 5.14 If the Member or Firm submits written representations in accordance with Regulation 5.12.1, the Committee shall consider the written representations and decide whether to withdraw, vary or affirm the proposed Adverse Decision.

Hearings

- 5.15 If the Member or Firm requests a Hearing in accordance with Regulation 5.12.2, a Hearing shall be held before a quorum of the Committee, which shall consider the representations made by the Member or Firm and decide whether to withdraw, vary or affirm the proposed Adverse Decision.
- 5.16 A Hearing shall be held in accordance with any guidance on regulatory hearings which may be issued by ICAS from time to time.
- 5.17 The Committee may at its discretion order the Member or Firm to contribute to the costs of a Hearing.

Notification of outcome

- 5.18 Notice of the Committee's decision to withdraw, vary or affirm the proposed Adverse Decision shall be given to the Member or Firm.
- 5.19 If the Committee decides not to withdraw the proposed Adverse Decision, the notice under Regulation 5.18 shall confirm the date upon which the Adverse Decision shall come into effect, subject to Regulation 5.20.

Appeals

- 5.20 If the Committee decides not to withdraw its proposed Adverse Decision, the Member or Firm has the right to appeal the Adverse Decision.
- 5.21 An appeal must be made to the Tribunal Clerk within 21 days of the date on which notice of the Adverse Decision is served on the Member or Firm under Regulation 5.18. The appeal shall be considered in accordance with the Discipline and Appeal Tribunals Regulations.
- 5.22 If the Member or Firm submits an appeal under Regulation 5.21, the Adverse Decision shall not come into force until such date as may be prescribed by the Appeal Tribunal.

Regulatory Penalties

- 5.23 The Committee may propose a Regulatory Penalty under Rule 13.16.10 to a Member or Firm if it is satisfied that the following conditions are met:
- 5.23.1 the Member or Firm has breached Regulations; and
 - 5.23.2 the breach concerned does not involve conduct which calls into question the fitness to practice of any Member.
- 5.24 The Committee shall determine the amount of the proposed Regulatory Penalty and shall serve notice of its decision on the Member or Firm accordingly.
- 5.25 The Member or Firm shall respond to the Committee in writing within ten business days of service of the notice under Regulation 5.24 to confirm whether or not the proposed Regulatory Penalty is accepted.
- 5.26 A Member or Firm may make representations to the Committee in respect of the proposed Regulatory Penalty. The Committee shall consider such representations and decide whether the proposed Regulatory Penalty should be affirmed, varied or withdrawn. Notice of the Committee's decision shall be served on the Member or Firm.
- 5.27 If a proposed Regulatory Penalty has been affirmed or varied under Regulation 5.26, the Member or Firm shall have an additional period of 10 business days from the date of service of the notice under Regulation 5.26 to confirm whether or not the proposed Regulatory Penalty is accepted. The Committee shall not be obliged to consider any additional representations from the Member or Firm.

- 5.28 If a Member or Firm accepts a proposed Regulatory Penalty, the sum referred to shall be payable within ten business days of the Member or Firm's acceptance, or within such longer period of time as the Committee may specify or agree.
- 5.29 The Committee shall refer a Member or Firm to the Investigation Committee if the Member or Firm:
- 5.29.1 does not accept the proposed Regulatory Penalty;
 - 5.29.2 does not respond to the proposed Regulatory Penalty within the timescale set out in Regulation 5.27.

Publicity

- 5.30 The Committee may publish its decisions and the course of any action taken under these Regulations in such manner as it thinks fit.

6. PRACTICE MONITORING

Application

- 6.1 Subject to Regulation 6.2, Practice Monitoring shall cover:
- 6.1.1 the work undertaken by Members holding a Practising Certificate;
 - 6.1.2 the work undertaken by persons who have agreed to be subject to Practice Monitoring;
 - 6.1.3 the regulatory and compliance processes of a Firm which includes one or more Members in Practice.
- 6.2 The Committee shall have the discretion to grant a Member or Firm an exemption from Practice Monitoring if the Committee is satisfied that:
- 6.2.1 the Member or Firm is subject to a comparable quality assurance programme conducted by another accountancy body with which ICAS has a reciprocal arrangement;
 - 6.2.2 the Member or Firm has provided such information as the Committee may request in connection with the comparable quality assurance programme;
 - 6.2.3 the exemption will not result in any undue risk to clients, third parties or the public interest.

Scope and responsibilities

- 6.3 The Committee shall determine the timing and frequency of Practice Monitoring visits.
- 6.4 Members and Firms shall cooperate fully and promptly with Practice Monitoring, which cooperation shall include:
- 6.4.1 cooperating with any individuals engaged by the Committee or ICAS;
 - 6.4.2 using best endeavours to accommodate a Practice Monitoring visit on the date notified under Regulation 6.5;
 - 6.4.3 providing such information as may be requested in advance of a Practice Monitoring visit;
 - 6.4.4 providing access to client files and other documents and records;
 - 6.4.5 providing full responses to any questions or enquiries.
- 6.5 Subject to Regulation 6.6, a Member or Firm shall be given not less than six weeks' notice of the date on which a Practice Monitoring visit shall take place.
- 6.6 The Committee may reduce the period of notice in Regulation 6.5 if it considers that an earlier Practice Monitoring visit is required to assess a potential risk to clients, third parties or the public interest.
- 6.7 If a Member or Firm is unable to accommodate a Practice Monitoring visit on the date notified under Regulation 6.5, the Member or Firm shall contact ICAS to request a postponement. A request for a postponement shall be made within ten business days of receipt of the notice under Regulation 6.5 and shall include an alternative date for the Practice Monitoring visit no later than two months after the date originally notified.

- 6.8 The Committee shall have discretion to grant or reject a request for a postponement submitted under Regulation 6.7 and shall notify the Member or Firm of its decision and the final date of the Practice Monitoring visit.

Reports

- 6.9 At the conclusion of a Practice Monitoring visit, the Member or Firm shall receive a report in summary of the visit.
- 6.10 The report referred to in Regulation 6.9 shall be intimated to the Committee which shall consider whether it requires to take any action in response. The Member or Firm shall be notified accordingly.

7. USE OF THE DESIGNATION 'CHARTERED ACCOUNTANTS'

- 7.1 The Regulations in Part 7 have application only in the United Kingdom and the European Economic Area.
- 7.2 In this Part of the Regulations the term 'Chartered Accountant' means a member of one of the Institutes.
- 7.3 A Member who is a sole practitioner may describe his practice as 'Chartered Accountants'.
- 7.4 Subject to Regulations 7.5 to 7.7, the Committee shall exercise its reasonable discretion in determining whether a Firm may describe itself as 'Chartered Accountants'.
- 7.5 A Firm in which less than 50% of the Principals is each a Chartered Accountant shall not be entitled to describe the Firm as 'Chartered Accountants'.
- 7.6 A Firm in which more than 50% of the Principals is each a Chartered Accountant shall be entitled to describe the Firm as 'Chartered Accountants' if:
- 7.6.1 any Principal who is not a Chartered Accountant is an Affiliate; or
 - 7.6.2 the Firm has submitted to ICAS a written undertaking signed by each Principal who is neither a Chartered Accountant nor an Affiliate that the Principal agrees to adhere to the Rules, Regulations and Code of Ethics as if he were a Member.
- 7.7 An entity within a group structure shall be entitled to use the designation 'Chartered Accountants' if:
- 7.7.1 more than 50% of the Principals of the entity are Chartered Accountants;
 - 7.7.2 the entity has submitted to ICAS a written undertaking signed by each Principal who is neither a Chartered Accountant nor an Affiliate that the Principal agrees to adhere to the Rules, Regulations and Code of Ethics as if he were a Member; and
 - 7.7.3 there is more than 50% ownership and control of the ultimate parent entity by Chartered Accountants.
- 7.8 In exercising its discretion in determining whether a Firm may describe itself as 'Chartered Accountants', the Committee shall have regard to such guidance as may be issued by ICAS from time to time.
- 7.9 A Firm shall not include the designatory letters 'CA' in the registered name of a limited company or LLP.
- 7.10 A Firm which satisfies the requirements of 7.3, 7.6 and 7.7, and where 50% of the Principals are Members, may apply to ICAS for permission to use the letters 'CA' instead of the descriptions 'Chartered Accountants'.
- 7.11 An application received under Regulation 7.10 may be granted at the discretion of the Committee and subject to such conditions as it deems appropriate.