



# *Review Committee Regulations*

EFFECTIVE FROM 14 JUNE 2017

## REVIEW COMMITTEE REGULATIONS

Effective from 14 June 2017. These regulations were made by the **Professional Standards Board** of **ICAEW** and first came into force on the 1 January 2001. Regulations 1, 17 and 34a were amended with effect from 1 July 2005. Regulations 2, 7, 14, 19 and 30 were amended with effect from 5 November 2008. In regulation 1, the definition **Review Committee** was amended with effect from 1 September 2015, the definition of **Investment Business Committee** was amended with effect from 1 July 2012 and subsequently amended with effect from 1 September 2015. On 14 August 2014 the **Probate Committee** became a new defined term. On 1 July 2016 Regulation 7 was amended in respect of the quorum for a **panel** of the **Review Committee**. Regulations 1 and 2 were amended with effect from 14 June 2017 to include within the scope of the regulations decisions of the Professional Indemnity Insurance Committee.

**In these regulations, guidance is given to help firms apply the regulations. This is printed in light type with defined terms bold type and italics.**

### Interpretation

- 1 These regulations are made pursuant to the **Principal Regulations**. If there is any conflict between these regulations and the **Principal Regulations**, the **Principal Regulations** shall prevail. Except where express reference is made in this regulation, words and phrases used in these regulations have the same meaning as in the **Principal Regulations**.

**Applicant** means either a **firm** or a person which or who has made an **application** for a review of a decision of the **Audit Registration Committee**, the **Insolvency Licensing Committee**, the **Probate Committee**, the **Investment Business Committee** or the **Professional Indemnity Insurance Committee**.

**Application** means an application for review of a decision of the **Audit Registration Committee**, the **Insolvency Licensing Committee**, the **Probate Committee**, the **Investment Business Committee** or the **Professional Indemnity Insurance Committee**.

**Audit Registration Committee** or 'ARC' means the registration committee appointed by the Council of **ICAEW** to discharge the responsibilities and powers contained in the Audit Regulations.

**Business days** means Monday to Friday excluding public holidays.

**Chairman** means the **chairman** of a **panel** or, in his absence, the chairman of the **Review Committee**.

**Days** include weekends and public holidays.

**The director** means the person holding the office which is responsible for the operation of **ICAEW's** disciplinary and regulatory arrangements in Professional Standards.

**Firm** has the meaning given in the **Principal Regulations** applicable to the regulatory committee which made the decision or order in respect of which the **applicant** seeks a review.

**ICAEW** means the Institute of Chartered Accountants in England and Wales.

**ICAEW member** means an individual who is a member of **ICAEW**.

**ICAEW representative** means a **legal adviser** or a barrister or solicitor.

**Investment Business Committee** or '**IBC**' means the authorisation committee appointed by the Council of **ICAEW** to discharge the responsibilities and powers contained in the DPB Handbook, the DPB (Consumer Credit) Handbook and under the Statement of professional standing regulations.

**Insolvency Licensing Committee** or '**ILC**' means the Licensing Committee appointed by the Council of **ICAEW** to discharge the responsibilities and powers contained in the Insolvency Licensing Regulations.

**Lay member** means someone who is not and never has been a **member**, affiliate or employee of **ICAEW** or any other accountancy body. Furthermore, solicitors and those with legal training will not be regarded as **lay members** in the **Review Committee** when it determines any review of a decision of the **Probate Committee**.

**Legal adviser** means a person employed by **ICAEW** and who may be instructed by **the director** as **ICAEW's** representative on any **application** for a review.

**Legal assessor** means a solicitor or barrister appointed by the **secretary** under Regulation 7.

**Member** means a **member** of the committee whether accountant, lay or otherwise.

**Notice** means in writing.

**Panel** means three **members** appointed to hear an **application** for a review. A **panel** must comprise of two **lay members** and one **ICAEW member**.

**Postponement** means abandonment of a date set for a hearing before the hearing has started.

The masculine gender shall include the feminine gender and vice versa and the singular shall include the plural.

**Principal Regulations** means the Audit Regulations, the DPB Handbooks, the Insolvency Licensing Regulations, the Probate Regulations and the Professional Indemnity Insurance Regulations as amended from time to time.

**Probate Committee or 'PC'** means the accreditation committee appointed by the Council of **ICAEW** to discharge the responsibilities and powers contained in the Probate Regulations.

**Professional Indemnity Insurance Committee** or '**PIIC**' means the committee appointed by the Council of **ICAEW** to discharge the responsibilities and powers in the Professional Indemnity Insurance Regulations.

**Professional Standards Board** means the board to which the Council of **ICAEW** has delegated responsibility for oversight of regulatory matters. This Board has now been replaced by the **ICAEW** Regulatory Board.

**Regulatory Committee** means the *ARC, ILC, PC, IBC* or *PIIC* as appropriate.

**Review Committee** means the committee of **ICAEW** appointed to review decisions concerning audit registration, insolvency licensing, probate accreditation, professional indemnity insurance, investment business and consumer credit under the **Principal Regulations**.

**Secretary** means the secretary to the **Review Committee**.

- 2 An **application** shall be made in writing to the **secretary** within 10 *business days* of the **regulatory committee** serving a decision on a **firm, ICAEW member** or other person (or 28 *days* in the case of a decision by the **Probate Committee** to withdraw or suspend accreditation). Any such **application**:
  - a. should contain a statement of the ground or grounds on which the review is sought;
  - b. should state whether he requires his **application** to be heard in public; and
  - c. may be served on the **secretary** by fax or email.
- 3 In the absence of a request under Regulation 2b, the **applicant** shall be deemed to have waived his right to have a hearing in public.
- 4 The **secretary** shall not accept as valid an **application** for review that does not comply with Regulation 2a.

#### **Application for leave to apply for review outside the time limit**

- 5 Subject to the following provisions of this regulation, an **application** made outside the time limit specified in regulation 2 may be considered by the **chairman** and in his absence the vice-chairman of the **Review Committee** and his decision shall be final. Any such **application** shall:
  - a. be in writing;
  - b. set out the reasons why the **application** could not reasonably have been made within the period originally allowed; and,
  - c. be accompanied by documents or other material in support of the **application** including, where appropriate, a medical certificate or other confirmation of a medical condition.
- 6 An **application** made outside the said time limit that does not comply with Regulation 5, a, b and c shall not be valid.

#### **Prior to the hearing**

- 7 **The director** shall, as soon as practicable, arrange to convene a **panel** of the **Review Committee** to consider the **application**. Subject to Regulation 8, a quorum for a **Panel** of the **Review Committee** is three and must comprise of two **lay members** and one **ICAEW member**. The **panel** will be advised by a **legal assessor**. The **legal assessor** is not a **member** of the **Review Committee**. His role is to advise the **panel** on procedure and law and to prepare any written Record of Decision for approval by the **chairman** of the **panel**.

- 8 If, in the case of a **panel** convened to consider the **application**, any **member** of the **panel**:
- a. is for any reason unable to attend the hearing or any adjourned hearing of the application; or,
  - b. is, in the course of the hearing, unable to continue to attend,
- the remaining **members**, if not less than two in number and providing they comprise of one **lay** and one **ICAEW member**, may at their discretion proceed or continue with the hearing; but if the **applicant** is present or represented at the hearing, they shall do so only if he or his representative consents.
- 9 Unless he agrees to waive or vary any requirements for **notice**, as soon as practicable after receipt of his **application**, the **applicant** will be given not less than 42 **days** written notice of the date, time, and place for the hearing of the **application**.
- 10 **The director** shall appoint a representative to prepare and present **ICAEW's** case to the **panel** who may be a **legal adviser** or a barrister or solicitor.
- 11 In support of his **application**, an **applicant** may make written representations (subject to Regulation 13 below), appear in person before the **panel** and or be represented by a barrister or a solicitor or any other **ICAEW member** or with the agreement of the **panel**, any person.
- 12 Not less than 28 **days** before the date set aside for the hearing, the **secretary** shall serve on the **applicant**:
- a. a copy of all documents that the **panel** will be asked to consider;
  - b. a copy of any statements of witnesses (whether or not they are to be called to give oral evidence) which shall give the full name and address of, and shall be signed by, the witness; and,
  - c. a case summary.
- 13 Not less than 14 **days** before the date set for the hearing, the **applicant** shall serve on the **secretary**:
- a. any response in writing to documents served upon him under Regulation 12 above;
  - b. eight copies of all documents that the **panel** will be asked to consider; and,
  - c. eight copies of any statements of witnesses (whether or not they are to be called to give oral evidence) which shall give the full name and address of, and shall be signed by, the witness.
- 14 Any **notice** or document shall be served by the **applicant** by sending the **notice** or document addressed to the **secretary** to the **Review Committee** at Metropolitan House, 321 Avebury Boulevard, Milton Keynes MK9 2FZ by first-class post. Any **notice** or document required to be served on the **applicant** may be served personally or by first-class post to the **applicant** at his registered address. If documents are served by post, service is deemed to have been effected 48 hours after posting.
- 15 **The director** may decide whether an **application** for a **postponement** of a hearing, should be granted.
- 16 **The director**, or the **chairman** may of his own volition or on an **application** by either party prior to the proceedings direct that there be a pre-hearing review.

- 17 Any preliminary issues on procedure or any **application** for directions which are necessary or desirable for securing the just, expeditious, and economical disposal of an **application** may be determined by a pre-hearing review **panel** (which may or may not be the **panel** appointed to consider an **application**). Any matters falling within this regulation may be decided by agreement between the parties without a hearing.
- 18 After the decision of the **regulatory committee** but before any hearing of the **application**, **the director** may ask the **applicant** to provide such further information and documents relating to the **application** as he thinks necessary for the just, expeditious and economic disposal of the **application** and may require the **applicant** to supply such further copies of any document as he considers necessary.

### Order of proceedings

- 19 Unless the **panel** otherwise directs, the order of proceedings will be as follows:
- a. a representative will present **ICAEW's** case and produce any evidence, including calling of witnesses to give oral evidence;
  - b. the **applicant** or his representative will present his case and then produce any evidence including oral evidence from the **applicant** or calling witnesses to give oral evidence;
  - c. **ICAEW's representative** followed by the **applicant** may each make a closing address to the **panel**;
  - d. the **panel** may ask questions of the **applicant**; and
  - e. the **panel** will consider its decision in the absence of the parties.

### The hearing

- 20 The hearing of the **application** shall be held in private unless the **applicant** has requested a hearing in public in accordance with Regulation 2.
- 21 In the absence of the **applicant** or his representative, the **panel** may proceed to hear the **application** where it is satisfied that Regulation 9 has been complied with.
- 22 If the **applicant** does not comply with Regulation 13 and he does not attend at the hearing, either in person or by his representative, the **application** may be dismissed.
- 23 The rules of judicial evidence will not apply. The **panel** may, at its discretion, treat as evidence any testimony whether in written, oral, or other form.
- 24 A witness for one party may be questioned by, or on behalf of, the other party. A witness so questioned may be re-examined by, or on behalf of, the party calling him.
- 25 The **panel** may, at its discretion, hear two or more **applications** for review of decisions made by an **applicant** at the same time.
- 26 The **panel** may, with the agreement of all parties, hear **applications** for review from two or more **applicants** at the same time.
- 27 The **panel** may adjourn after hearing the **application** but before making a decision. In these circumstances the **panel** may ask the parties to reconvene at a later date so that it can give its decision or it may advise the parties that the decision will be notified in writing within a specific time period. If a decision is notified in writing then:

- a. the parties shall have a period of seven **days** from receipt of the written decision to make submissions in writing to the *panel* as to costs and publicity;
- b. the *panel* shall, within seven **days** thereafter, notify the parties in writing of its decision as to costs and publicity; and
- c. for the avoidance of doubt, the date of the *panel's* decision shall be the date on which the decision in Regulation 27b is deemed under these regulations to have been served on the *applicant*.

28 The *panel* shall consider whether publicity of any decision it makes is appropriate and if so, it shall decide in what manner the decision will be published.

29 After the *panel* makes a decision, the *secretary* shall give written **notice** of the decision to the *applicant*.

30 The *panel* shall provide written reasons for the decision which it has made including any direction as to whether publicity shall be given to the decision.

31 A shorthand or stenographic note of the proceedings may be taken or a tape recording made of them, on behalf of the *panel*.

32 No objection shall be upheld to any technical fault in the procedure adopted by the *panel* provided that the proceedings are fair and that the relevant regulations have been complied with.

33 After the *panel* has made its decision in respect of the matter under review, the *chairman* may invite *ICAEW's representative* to make representations on the question of costs. The *applicant* may make representations on the question of whether it or he should pay *ICAEW's* costs or a contribution thereto.

33.1 The *panel* may order the *applicant* to pay such sum as it may in its absolute discretion determine.

33.2 Unless a longer period for payment (whether by instalments or not) is allowed, the costs must be paid by the *applicant* within 30 **days** beginning with the date on which **notice** of the decision is given.

#### **Withdrawal of application**

34 The *applicant* may withdraw his *application* by **notice** in writing delivered to the *secretary*:

- a. at any time, being not less than 21 **days** before the date set aside for the *application*; or,
- b. with leave of the *chairman* at any other time; and,
- c. if an *application* to withdraw falls under Regulation 34b, the *applicant* may make written representations on the reasons for wishing to withdraw and whether he should pay a sum in respect of *ICAEW's* costs.

35 Leave may be granted under Regulation 34 above on such terms including payment of *ICAEW's* costs incurred to that date or a contribution thereto as the *chairman* shall decide in his absolute discretion.

- 36 Where an **applicant** gives **notice** to the **secretary**, either verbally or in writing, that he does not accept the terms under 35 above and that he will not attend the hearing, the **chairman** may in his absolute discretion decide that **ICAEW's** costs or a contribution thereto shall be paid by the **applicant** and that the **application** shall stand dismissed.