

# Statutory Instrument 2005 No. 1625

## **The Health Professions Council (Practice Committees and Registration) (Amendment) Rules Order of Council 2005**

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STATUTORY INSTRUMENTS

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**2005 No. 1625**

**HEALTH CARE AND ASSOCIATED PROFESSIONS**

**HEALTH PROFESSIONS**

The Health Professions Council (Practice Committees and Registration) (Amendment) Rules Order of Council 2005

<i>Made</i>	<i>7th June 2005 2005</i>
<i>Laid before Parliament</i>	<i>16th June 2005 2005</i>
<i>Coming into force</i>	<i>8th July 2005 2005</i>

At the Council Chamber, Whitehall, the 7th day of June 2005

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

Whereas in exercise of the powers conferred on it by articles 5(2)(b), 7, 9(2), 10, 19(1) to (3), 26 (3), 30(9), 32, 33 and 41(2) of, and paragraph 18 of Schedule 1 to, the Health Professions Order 2001<sup>[1]</sup>, and all other powers enabling it in that behalf, the Health Professions Council has made the Health Professions Council (Practice Committees and Registration) (Amendment) Rules 2005 as set out in the Schedule to this Order:

And whereas by article 41(1) of the Health Professions Order 2001 such Rules shall not come into force until approved by order of the Privy Council:

Now, therefore, Their Lordships, having taken the Rules into consideration, are pleased to, and do hereby, approve them.

This Order may be cited as the Health Professions Council (Practice Committees and Registration) (Amendment) Rules Order of Council 2005 and shall come into force on 8th July 2005.

*A. K. Galloway*  
Clerk of the Privy Council

## SCHEDULE

### THE HEALTH PROFESSIONS COUNCIL (PRACTICE COMMITTEES AND REGISTRATION) (AMENDMENT) RULES 2005

The Health Professions Council, in exercise of its powers under articles 5(2)(b), 7, 9(2), 10, 19(1) to (3), 26(3), 30(9), 32, 33 and 41(2) of, and paragraph 18 of Schedule 1 to, the Health Professions Order 2001<sup>[2]</sup> and of all other powers enabling it in that behalf and after consulting in accordance with articles 5(3)(a), 7(1) and 41(3) of that Order, hereby makes the following Rules:

#### **Citation and commencement**

1. These Rules may be cited as the Health Professions Council (Practice Committees and Registration) (Amendment) Rules 2005 and shall come into force on 8th July 2005.

#### **Interpretation**

2. In these Rules—

"the Committees Constitution Rules" means the Health Professions Council (Practice Committees) (Constitution) Rules 2003<sup>[3]</sup>;

"the Conduct and Competence Committee Rules" means the Health Professions Council (Conduct and Competence Committee) (Procedure) Rules 2003<sup>[4]</sup>;

"the Health Committee Rules" means the Health Professions Council (Health Committee) (Procedure) Rules 2003<sup>[5]</sup>;

"the Investigating Committee Rules" means the Health Professions Council (Investigating Committee) (Procedure) Rules 2003<sup>[6]</sup>; and

"the Registration and Fees Rules" means the Health Professions Council (Registration and Fees) Rules 2003<sup>[7]</sup>.

#### **Amendments to the Committees Constitution Rules**

3. —(1) In rule 2 of the Committees Constitution Rules (interpretation) omit the definition of "second transitional period".

(2) In rule 5 of the Committees Constitution Rules (tenure), for paragraph (1) substitute—

" (1) A member of a Practice Committee shall serve—

(a) for a period of two years; or

(b) if he is also a member of the Council, until any earlier date on which he ceases to be a member of the Council."

(3) In rule 8 of the Committees Constitution Rules (meetings)—

(a) in paragraph (1) for "four times" substitute "twice"; and

(b) after paragraph (4) add—

" (5) A resolution may be unanimously approved in writing whether or not electronically."

#### **Amendments to the Investigating Committee Rules**

**4.** —(1) In rule 2 of the Investigating Committee Rules (interpretation)—

(a) after the definition of "health professional" insert—

" "legal assessor" means a person appointed in accordance with article 34(1) of the Order;"

(b) after the definition of "the Order" insert—

" "Presenting Officer" means a person appointed by—

(a) the Council to present the case on its behalf at any hearing before the Committee which relates to an allegation against a health professional; or

(b) the Registrar to represent him at any hearing before the Committee which relates to a register entry allegation against a health professional;

and may include a solicitor or counsel;; and"; and

(c) omit the definition of "Solicitor".

(2) In rule 4 of the Investigating Committee Rules (investigation of allegations), after paragraph (7) add—

" (8) The Committee may consider and determine together—

(a) two or more allegations against the same health professional; or

(b) allegations against two or more health professionals, where it would be just to do so."

(3) In rule 6 of the Investigating Committee Rules (register entry allegations: procedure), after paragraph (6) add—

" (7) The Committee may consider and determine together—

(a) two or more register entry allegations against the same health professional; or

(b) register entry allegations against two or more health professionals,

where it would be just to do so."

(4) In rule 8 of the Investigating Committee Rules (conduct of hearing)—

(a) in paragraph (1), after sub-paragraph (f), add—

" ; and

(g) the Committee may exclude from the hearing any person whose conduct, in its opinion, is likely to disrupt the orderly conduct of the proceedings."; and

(b) in paragraph (4), for "Solicitor" in each place where it occurs substitute "Presenting Officer".

(5) After rule 8 of the Investigating Committee Rules add—

**" Vulnerable witnesses**

**8A.** —(1) In proceedings before the Committee, the following may, if the quality of their evidence is likely to be adversely affected as a result, be treated as a vulnerable witness—

(a) any witness under the age of 17 at the time of the hearing;

(b) any witness with a mental disorder within the meaning of the Mental Health Act 1983<sup>[8]</sup>;

(c) any witness who is significantly impaired in

relation to intelligence and social functioning;

(d) any witness with physical disabilities who requires assistance to give evidence;

(e) any witness, where the allegation against the health professional is of a sexual nature and the witness was the alleged victim; and

(f) any witness who complains of intimidation.

(2) Subject to any representations from the parties and the advice of the legal assessor, the Committee may adopt such measures as it considers desirable to enable it to receive evidence from a vulnerable witness.

(3) Measures adopted by the Committee may include, but shall not be limited to—

(a) use of video links;

(b) use of recorded evidence as the evidence-in-chief of a witness, provided that the witness is available at the hearing for cross-examination and questioning by the Committee;

(c) use of interpreters (including signers) or intermediaries;

(d) use of screens or such other measures as the Committee consider necessary in the circumstances, in order to prevent—

(i) the identity of the witness being revealed to the press or the general public; or

(ii) access to the witness by the health professional; and

(e) the hearing of evidence by the Committee in private.

(4) Where—

(a) the allegation against a health professional is based on facts which are sexual in nature;

(b) a witness is an alleged victim; and

(c) the health professional is acting in person,

the health professional shall only be allowed to cross-examine the witness in person with the written consent of the witness.

(5) If in the circumstances set out in paragraph (4), a witness does not provide written consent, the health professional shall, not less than seven days before the hearing, appoint a legally qualified person to cross-examine the witness on his behalf and, in default, the Council shall appoint such a person on behalf of the health professional."

#### **Amendments to the Conduct and Competence Committee Rules and Health Committee Rules**

**5.** —(1) In rule 2 of the Conduct and Competence Committee Rules and the Health Committee Rules (interpretation)—

(a) after the definition of "health professional" insert—

" "legal assessor" means a person appointed in accordance with article 34(1) of the Order;" and

(b) after the definition of "the Order" insert—

" "Presenting Officer" means a person appointed by the Council to present the case on its behalf at any hearing before the Committee which relates to an allegation against a health professional and may include a solicitor or counsel."; and

(c) omit the definition of "Solicitor".

(2) In rule 5 of the Conduct and Competence Committee Rules and the Health Committee Rules (allegations), after paragraph (3) add—

" (4) The Committee may consider and determine together—

(a) two or more allegations against the same health professional; or

(b) allegations against two or more health professionals,

where it would be just to do so."

(3) In rule 10 of the Conduct and Competence Committee Rules and the Health Committee Rules (conduct of hearing)—

(a) in paragraph (1), after sub-paragraph (f), add—

" ; and

(g) the Committee may exclude from the hearing any person whose conduct, in its opinion, is likely to disrupt the orderly conduct of the proceedings."; and

(b) in paragraph (4), for "Solicitor" in each place where it occurs substitute "Presenting Officer".

(4) After rule 10 of the Conduct and Competence Committee Rules and the Health Committee Rules insert—

**" Vulnerable witnesses**

**10A.** —(1) In proceedings before the Committee, the following may, if the quality of their evidence is likely to be adversely affected as a result, be treated as a vulnerable witness—

(a) any witness under the age of 17 at the time of the hearing;

(b) any witness with a mental disorder within the meaning of the Mental Health Act 1983<sup>[9]</sup>;

(c) any witness who is significantly impaired in relation to intelligence and social functioning;

(d) any witness with physical disabilities who requires assistance to give evidence;

(e) any witness, where the allegation against the health professional is of a sexual nature and the witness was the alleged victim; and

(f) any witness who complains of intimidation.

(2) Subject to any representations from the parties and the advice of the legal assessor, the Committee may adopt such measures as it considers desirable to enable it to receive

evidence from a vulnerable witness.

(3) Measures adopted by the Committee may include, but shall not be limited to—

(a) use of video links;

(b) use of recorded evidence as the evidence-in-chief of a witness, provided that the witness is available at the hearing for cross-examination and questioning by the Committee;

(c) use of interpreters (including signers) or intermediaries;

(d) use of screens or such other measures as the Committee consider necessary in the circumstances, in order to prevent—

(i) the identity of the witness being revealed to the press or the general public; or

(ii) access to the witness by the health professional; and

(e) the hearing of evidence by the Committee in private.

(4) Where—

(a) the allegation against a health professional is based on facts which are sexual in nature;

(b) a witness is an alleged victim; and

(c) the health professional is acting in person,

the health professional shall only be allowed to cross-examine the witness in person with the written consent of the witness.

(5) If in the circumstances set out in paragraph (4), a witness does not provide written consent, the health professional shall, not less than seven days before the hearing, appoint a legally qualified person to cross-examine the witness on his behalf and, in default, the Council shall

appoint such a person on behalf of the health professional."

(5) In rule 13 of the Conduct and Competence Committee Rules and the Health Committee Rules (review of orders and applications for restoration to the register), in paragraph (10) for "Solicitor" substitute "Presenting Officer".

### **Amendments to the Registration and Fees Rules**

**6.** —(1) In rule 4 of the Registration and Fees Rules (applications for registration)—

(a) in paragraphs (1)(a) and (1A)(a), for "specified in Schedule 1" substitute "provided by the Council containing the declaration and information listed in Schedule 1";

(b) in paragraph (2)(a), for "specified in Schedule 3" substitute "provided by the Council containing the declaration and information listed in Schedule 3"; and

(c) in paragraph (2)(b), for "specified in Schedule 4" substitute "provided by the Council containing the declaration and information listed in Schedule 4".

(2) In rule 6 of the Registration and Fees Rules (prescribed periods for additional education and training requirements), after paragraph (2) add—

" (3) A person to whom article 9(2)(a)(ii) or 10(2)(c) of the Order applies shall not be admitted or re-admitted to the register or have his registration renewed unless he has—

(a) undertaken such education or training; or

(b) gained such experience,

as the Council may specify in standards under article 19(4)(b) of the Order and which apply to him."

(3) In rule 11 of the Registration and Fees Rules (renewal of registration), in paragraph (1)(a), for "for the renewal of his registration in the form specified in Schedule 2" substitute "form for the renewal of his registration which shall include the declaration and information listed in Schedule 2".

(4) After rule 11 of the Registration and Fees Rules add—

**" Continuing professional development**

**11A.** —(1) A registrant must—

(a) undertake continuing professional development in accordance with the standards specified by the Council under article 19(4)(a) of the Order and which apply to him; and

(b) maintain an up to date record (including any supporting documents or other evidence) of the continuing professional development he has undertaken.

(2) The Committee may at any time send a notice to a registrant requiring him to—

(a) submit his continuing professional development record for inspection; and

(b) provide the Committee with such other evidence as it may reasonably require,

within such time period as the Committee may specify in the notice (which shall be at least 21 days beginning with the day on which the notice was sent), for the purpose of determining whether the health professional has met the requirements of paragraph (1).

(3) Where, from the information supplied by the registrant in accordance with paragraph (2), the Committee is not satisfied that he has complied with a requirement imposed by paragraph (1)(a) or (b), the Committee shall send the registrant a notice—

(a) providing a statement of the reasons why the Committee is not satisfied that the registrant has complied with the requirement; and

(b) inviting the registrant to submit his observations on the matter by the date specified in the notice, which shall be at least 14 days beginning with the date on which the notice was sent.

(4) If, after considering any observations, the Committee is of the view that the registrant has not complied with a requirement imposed by paragraph (1)(a) or (b), the Committee may instruct the Registrar to remove the name of

the registrant from the register.

(5) If a registrant fails to respond to a notice sent to him by the Committee under paragraph (2) within the period specified in the notice, the Committee shall send him a further notice warning that, if he does not respond to the original notice before the end of the period of 14 days beginning with the day on which the further notice was sent, his name may be removed from the register.

(6) If a registrant does not respond by the date specified in the notice under paragraph (2) or the further notice under paragraph (5), then the Committee may instruct the Registrar to remove the name of the registrant from the register."

(5) For Schedule 1 to the Registration and Fees Rules (application form for admission to the register) substitute the Schedule set out in Schedule 1 to these Rules.

(6) For Schedule 2 to the Registration and Fees Rules (application form for renewal of registration) substitute the Schedule set out in Schedule 2 to these Rules.

(7) For Schedule 3 to the Registration and Fees Rules (character reference form) substitute the Schedule set out in Schedule 3 to these Rules.

(8) For Schedule 4 to the Registration and Fees Rules (health reference form) substitute the Schedule set out in Schedule 4 to these Rules.

Sealed with the common seal of the Health Professions Council on

26th May 2005.

***L.S.***

*Norma Brook*  
President

*Marc Seale*  
Registrar

SCHEDULE 1

Rule 6(5)

SUBSTITUTION OF SCHEDULE 1 TO THE REGISTRATION  
AND FEES RULES

" SCHEDULE 1

Rule 4(1)(a)

Application for admission to a part of the register

The following information shall be provided by an applicant  
to the Council:

- (a) his full name;
- (b) his former name (if any);
- (c) his date of birth;
- (d) his nationality;
- (e) his home address;
- (f) his work address;
- (g) his telephone number;
- (h) his e-mail address;
- (i) the Part of the Register to which his application relates;
- (j) details of his education, training, experience and qualifications in reliance upon which the application is made;

(k) whether he has previously been registered by the Council or another health or social care regulatory body, and if he has, details of such registration;

(l) confirmation that he has not been convicted of, or cautioned for, any criminal offence or, if he has, details of the conviction or caution;

(m) confirmation that he has not been disciplined by another health or social care regulatory body or, if he has, details of the disciplinary action; and

(n) a declaration by the applicant as to his good health and good character."

## SCHEDULE 2

Rule 6(6)

### SUBSTITUTION OF SCHEDULE 2 TO THE REGISTRATION AND FEES RULES

## " SCHEDULE 2

Rule 11(1)(a)

### Application for renewal of registration

**1.** The following information shall be provided by a registrant to the Council:

(a) his full name;

(b) his home address;

(c) his registration number;

(d) the Part of the Register to which his application relates;

(e) confirmation that he has continued to practise his profession since his last registration;

(f) confirmation that he continues to meet the Standards of Proficiency for his profession;

(g) confirmation that he has met any continuing professional development requirements under article 19(1) of the Order that apply to him; and

(h) a declaration by the registrant as to his good health and good character.

2. A registrant who is unable to comply with any of the provisions of paragraph 1 requiring him to provide a confirmation or declaration must send a letter to the Council, addressed to the Registrar, setting out the reasons why he is unable to comply."

### SCHEDULE 3

Rule 6(7)

### SUBSTITUTION OF SCHEDULE 3 TO THE REGISTRATION AND FEES RULES

" SCHEDULE 3

Rule 4(2)(a)

Character reference

The following information shall be provided by the referee to the Council:

(a) the full name of the applicant;

(b) the Part of the Register to which the application

relates;

(c) the full name of the referee;

(c) his home or business address;

(d) his profession;

(e) the length of time that he has known the applicant;

(f) a declaration that he knows of no reason why the applicant should not practise the profession to which the application relates with honesty and integrity."

#### SCHEDULE 4

Rule 6(8)

#### SUBSTITUTION OF SCHEDULE 4 TO THE REGISTRATION AND FEES RULES

" SCHEDULE 4

Rule 4(2)(b)

Health reference

The following information shall be provided by the referee to the Council:

(a) the full name of the applicant;

(b) the Part of the Register to which the application relates;

(c) the full name of the referee;

(d) his home or business address;

(e) confirmation that he is a registered medical practitioner;

(f) whether the reference is made on the basis of his personal knowledge of the applicant's health, examination of the applicant's medical records or medical examination of the applicant;

(g) a declaration that he is satisfied that the applicant's health does not affect his ability to practise the profession to which the application relates."

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#### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order, which is made under the Health Professions Order 2001, approves Rules ("the Amending Rules") made by the Health Professions Council.

Rule 3 of the Amending Rules amends the Health Professions Council (Practice Committees) (Constitution) Rules 2003 (as Scheduled to S.I. 2003/1209). The amendments provide for Committee Members to have fixed two year terms in office, unless their term of office on the Health Professions Council ends earlier. Secondly, they reduce the minimum number of Practice Committee meetings from four to two in each year. Thirdly, they provide that resolutions may be passed electronically.

Rules 4 and 5 of the Amending Rules amend the Health Professions Council (Conduct and Competence Committee) (Procedure) Rules 2003 (as Scheduled to S.I. 2003/1575), the Health Professions Council (Health Committee) (Procedure) Rules 2003 (as Scheduled to S.I. 2003/1576), and the Health Professions Council (Investigating Committee) (Procedure) Rules 2003 (as Scheduled to S.I. 2003/1574). The amendments introduce the definition of the term Presenting Officer, which includes a solicitor or counsel. Secondly, they provide for the joinder of allegations against a health professional, or the joinder of allegations against two or more health professionals. Thirdly, they set out provisions relating to who may

be treated as a vulnerable witness and the adoption by the Committees of such measures as they consider necessary to enable them to receive evidence from a vulnerable witness. Finally, they allow the Committees to exclude a person whose conduct is disruptive from the hearing.

Rule 6 of the Amending Rules amends the Health Professions Council (Registration and Fees) Rules 2003 (as Scheduled to S.I. 2003/1572 and amended by rules Scheduled to S.I. 2004/2524) ("the Registration and Fees Rules"). The amendments remove the actual forms for registration or renewal of registration, and forms for character and health references from the Schedules to the Registration and Fees Rules. Instead the new Schedules now indicate the type of information and supporting documentation required for registration, renewal of registration and for the character and health references. Secondly, the amendments clarify the requirements placed upon a person who is affected by prescribed periods relating to additional education, training and experience, prior to being admitted or re-admitted to the register, or having his registration renewed. Lastly, the amendments set out the requirements in respect of post-registration training which have to be met by a health professional.

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*Notes:*

[1] S.I. 2002/254.[back](#)

[2] S.I. 2002/254.[back](#)

[3] Scheduled to S.I. 2003/1209.[back](#)

[4] Scheduled to S.I. 2003/1575.[back](#)

[5] Scheduled to S.I. 2003/1576.[back](#)

[6] Scheduled to S.I. 2003/1574.[back](#)

[7] Scheduled to S.I. 2003/1572 as amended by rules Scheduled to SI 2004/2524.[back](#)

[8] 1983 c. 20.[back](#)

[9] 1983 c. 20.[back](#)

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