

The attached Rules were tabled at the 4 June 2003 meeting of Council in draft form. These have now been laid before Parliament and have come into force.

**THE HEALTH PROFESSIONS COUNCIL
(PRACTICE COMMITTEES) (CONSTITUTION) RULES 2003**

The Health Professions Council, in exercise of its powers under paragraph 18 of Schedule 1 to the Health Professions Order 2001^(a) and of all other powers enabling it in that behalf and after consulting in accordance with article 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) (Constitution) Rules 2003 and shall come into force on 23rd May 2003.

Interpretation

2. In these Rules:

“the Order” means the Health Professions Order 2001; and

“second transitional period” means the second transitional period determined in accordance with paragraph 2 of Schedule 2 to the Order.

Membership

3. The members of a Practice Committee shall be appointed by the Council in accordance with paragraph 19 of Schedule 1 to the Order and a Practice Committee shall consist of not less than nine members.

Chairman

4. The Council shall appoint from among its members a Chairman for each Practice Committee, and may appoint another member of the Committee to be its Deputy Chairman to act as chairman in the Chairman’s absence.

Tenure

5. (1) A member appointed to a Practice Committee before the end of the second transitional period shall serve until the end of that period.

(2) A member of a Practice Committee may resign at any time by notice in writing addressed to the Registrar.

(3) The Council may remove a person from office as a member of a Practice Committee—

^(a) S.I. 2002/254

- (a) for a serious and persistent deficiency in his attendance, conduct or performance at meetings of the Committee;
- (b) if he is a member of the Committee by virtue of his being a registered professional and he—
 - (i) ceases to be wholly or mainly engaged in the practice, teaching or management of the relevant profession or in research in those fields, or
 - (ii) ceases to be registered in the part of the register relating to that profession; or
- (c) if he is a member of the Committee by virtue of his being a registered medical practitioner and he ceases to be so registered.

Vacancies

6. Where a person ceases to be a member of a Practice Committee the Council may fill the vacancy and the person appointed shall serve for the remainder of the term of the member he has replaced.

Standards for members

7. (1) A member of a Practice Committee shall—
- (a) attend all meetings of the Committee unless there is good reason for him being unable to do so;
 - (b) prepare for any meeting of the Committee by reading the agenda and any papers issued by the Committee or the Council which are relevant to any subject to be considered at that meeting; and
 - (c) if he will not be attending a meeting of the Committee, take all reasonable steps to give advance warning of his absence to the Chairman.
- (2) A member of a Practice Committee shall undertake education and training provided or organised by the Council from time to time so that he is properly informed about his responsibilities and, in particular, shall receive training in—
- (a) the functions of the Council, and the role of the Committee and its place in the work of the Council;
 - (b) the effective conduct of proceedings by the Committee; and
 - (c) the discharge by the Committee of its functions under Part V of the Order (fitness to practise) including the principles of natural justice, human rights and Community law.

Meetings

8. (1) A Practice Committee shall meet at least four times each year at such places, times and dates as the Chairman may determine.

(2) The quorum for a meeting of a Practice Committee shall be five.

(3) At least once in every year a Practice Committee shall meet—

- (a) to review the allegations heard by the Committee during the previous 12 months;
- (b) to review the education, training, attendance and performance of its members during that period;
- (c) to consider the education and training requirements for its members for the following 12 months and make recommendations to the Council; and
- (d) in the case of the Conduct and Competence Committee, to review the standards of conduct, performance and ethics established by the Council under article 21(1)(a) of the Order.

(4) Subject to the provisions of the Order and these or any other rules made under it a Practice Committee may regulate its own procedure.

Sealed with the common seal of the Health Professions Council on 30th April 2003.

Norma Brook
President

Marc Seale
Registrar

**THE HEALTH PROFESSIONS COUNCIL
(REGISTRATION AND FEES) RULES 2003**

The Health Professions Council, in exercise of its powers under articles 5(2)(b), 7, 9(2), 10, 11, 12(1)(c)(iii), 33 and 41(2) of the Health Professions Order 2001^(a) and of all other powers enabling it in that behalf and following consultation in accordance with articles 5(2)(a), 7(1), 7(3) 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 (Registration and Fees) Rules 2003 and shall come into force on 9th July 2003.

Interpretation

2. In these Rules—

“Committee” means the Education and Training Committee of the Council;

“competent authority” shall be construed in accordance with regulation 2 of the European Communities (Recognition of Professional Qualifications) Regulations 1991^(b) or regulation 8 of the European Communities (Recognition of Professional Qualifications) (Second General System) Regulations 2002^(c) as appropriate;

“doctor” means a registered medical practitioner;

“home relevant State” means the relevant State (within the meaning of the European Communities (Recognition of Professional Qualifications) Regulations 1991 or the European Communities (Recognition of Professional Qualifications) (Second General System) Regulations 2002 as appropriate) from which, as the case requires, the applicant originates or comes or in which the applicant formerly qualified in, or practised, the profession to which his application relates;

“the Order” means the Health Professions Order 2001;

“relative”, in relation to any person, means—

- (a) his spouse;
- (b) any lineal ancestor, lineal descendant, brother, sister, aunt, uncle, nephew, niece, or first cousin, of his or of his spouse; or
- (c) the spouse of any relative mentioned in paragraph (b),

(a) S.I. 2002/254.

(b) S.I. 1991/824 as amended by S.I. 2000/1960, 2002/880 and 2002/3051.

(c) S.I. 2002/2934.

and for the purposes of deducing any such relationship "spouse" includes a former spouse, a partner to whom the person is not married, and a partner of the same sex.

The Register

3. (1) There shall be entered in the register against the full name of each registrant—
 - (a) his registration number;
 - (b) his last known home address; and
 - (c) any qualification of the registrant which has led to his registration.
- (2) The home address of a registrant shall not be included in any published version of the register without his consent.
- (3) The entries for registrants in each part of the register shall appear in the alphabetical order of their surnames.
- (4) The Registrar may enter on the register any other information which is material to a registrant's registration.
- (5) The Registrar shall keep the register in a form and manner which guards against falsification and shall take all reasonable steps to ensure that only he and such persons as have been authorised by him in writing for the purpose shall be able to amend the register or have access to the version of the register which contains entries which are not included in the published version of the register.

Applications for registration

4. (1) An application for admission to a part of the register shall be—
 - (a) made in writing on the form specified in Schedule 1;
 - (b) signed by the applicant;
 - (c) accompanied by—
 - (i) the registration fee prescribed in rule 14, and
 - (ii) if the applicant is relying on article 12(1)(c) of the Order or seeking to be treated as satisfying the requirements of article 9(2)(a) of the Order by virtue of article 13 of the Order, the scrutiny fee prescribed by rule 17; and
 - (d) sent or given to the Registrar.

- (2) The applicant shall provide in connection with the application for registration—
- (a) subject to paragraph (3), a reference as to the good character of the applicant given on the form specified in Schedule 3 by a person who—
 - (i) is not a relative of the applicant,
 - (ii) is a person of standing in the community which includes a registered professional, doctor, solicitor, accountant, bank manager, Justice of the Peace, principal of the institution which granted the applicant an approved qualification or a person authorised to provide character references by the principal of that institution, Minister of the Church, Rabbi, Imam or other religious official acceptable to the Council, and
 - (iii) has known the applicant for a period of at least three years;
 - (b) subject to paragraphs (4) and (5), a reference as to the physical and mental health of the applicant given on the form specified in Schedule 4 by the applicant's doctor provided he—
 - (i) is not a relative of the applicant, and
 - (ii) has been the applicant's doctor (or in the case of a general practitioner is a partner in the practice of the doctor of whom the applicant has been a patient) for a period of at least three years ending on the date on which the reference is given;
 - (c) one of the following—
 - (i) the document which confers an approved qualification on the applicant or other evidence demonstrating that the applicant holds an approved qualification,
 - (ii) where the applicant is relying on article 12(1)(b) of the Order, the certificate or other document issued by a competent authority of his home relevant State attesting to the applicant's qualifications and, where appropriate, experience in respect of the profession to which his application relates, or
 - (iii) where his application is made under article 13 of the Order, such documents, information or evidence as the Committee may reasonably require for the purposes of determining whether by virtue of that article the applicant is to be treated as satisfying the requirements of article 9(2)(a) of the Order, including evidence that he holds the qualification on which he relies in making his application and information as to whether he has been a member of a professional body or has had professional indemnity insurance; and
 - (d) such other documents, information or evidence as the Committee may reasonably require for the purposes of verifying the information in and determining the application.

(3) Where the applicant is relying on article 12(1)(b) of the Order he may provide, in place of the character reference referred to in paragraph (2)(a)—

- (a) a document issued by the competent authority of his home relevant State attesting to the applicant's good character and confirming that he has not been suspended or prohibited from practising the profession to which his application relates because of professional misconduct or the commission of a criminal offence; or
- (b) where the competent authority does not issue such documents, a declaration on oath or solemn declaration attesting to and confirming the matters required by that competent authority to be attested to or confirmed under sub-paragraph (a):
 - (i) made by the applicant before a competent judicial or administrative authority or (where appropriate) a notary or qualified professional body of his home relevant State, and
 - (ii) authenticated by a certificate issued by the authority, notary or body.

(4) Where the applicant is relying on article 12(1)(b) of the Order he shall provide—

- (a) the document attesting to his physical or mental health required by the competent authority of his home relevant State which regulates the profession to which his application relates; or
- (b) where such a document is not required, the reference referred to in paragraph (2)(b).

(5) Where the Committee is satisfied that the applicant cannot provide a health reference in the terms provided by paragraph (2)(b) or (4), the Committee may permit an applicant to provide evidence of his physical and mental health—

- (a) by a reference given by a doctor who, in giving the reference, relies on the medical records of the applicant made by another doctor of whom the applicant has been a patient and which relate to a period of at least three years ending on the date on which the reference is given;
- (b) by an examination by a doctor nominated by the Committee; or
- (c) by such other manner as the Committee considers appropriate in a particular case.

Other conditions of registration

5. (1) For the purpose of satisfying itself as to the good character of the applicant, the Committee shall have regard to—

- (a) the character reference provided under rule 4(2)(a) or (3);

- (b) any conviction or caution which the applicant has received in the United Kingdom for a criminal offence or a conviction received elsewhere for an offence which, if committed in England and Wales, would constitute a criminal offence;
- (c) any determination by a body responsible for regulating or licensing a health or social care profession to the effect that the applicant's fitness to practise is impaired; and
- (d) any other matters which, in the opinion of the Committee, appear to be relevant to the issue,

and for this purpose the Committee may seek information additional to that provided with the application for registration from any person or source as it considers appropriate.

(2) For the purpose of being satisfied as to the physical and mental health of the applicant, the Committee shall have regard to—

- (a) the health reference or other evidence provided under rule 4(2)(b), (4) or (5); and
- (b) such other matters as appear to it to be relevant,

and for this purpose the Committee may seek information additional to that provided with the application for registration from the applicant and from any other person or source as it considers appropriate and may require the applicant to be examined or further examined by a doctor nominated by the Committee.

Prescribed periods for additional education and training requirements

6. (1) The prescribed period for the purposes of article 9(2)(a)(i) of the Order is five years (period within which a qualification must have been awarded).

(2) The prescribed period for the purposes of article 10(2)(c) of the Order is two years (period for which a person must have practised since his first registration or latest renewal of registration).

Knowledge of the English language

7. The Committee may require an applicant who is not an EEA national exercising an enforceable Community right or exempt person to produce evidence that he has sufficient knowledge of spoken and written English to enable him to practise as a registered professional in the United Kingdom safely and competently.

Certificates

8. (1) The Registrar shall, upon entering the name of a person in the register, issue to that registrant a certificate, in a form determined by the Council, which includes the part of the register in which he is registered, any designated title he may use and the date of registration.

(2) Any certificate issued in accordance with paragraph (1) shall remain the property of the Council and shall be surrendered to the Registrar by the person if—

- (a) a striking off order is made against him;
- (b) his name is removed from the register; or
- (c) for any other reason, the certificate no longer accurately reflects his entry in the register.

(3) Where any certificate is surrendered by a registrant in accordance with paragraph (2)(c) the Registrar shall issue a replacement certificate to that registrant which accurately reflects his entry in the register.

Amendments to register

9. (1) A registrant shall notify the Registrar in writing within one month of any change in the registrant's name or home address as given in the register.

(2) The Registrar shall amend the register, so far as may be necessary—

- (a) in consequence of any notification under paragraph (1);
- (b) to give effect to any order made by a Practice Committee under Part V of the Order;
- (c) to give effect to any decision on appeal under article 37 or 38 of the Order; and
- (d) to reflect any other information which comes to the attention of the Registrar and which in the Registrar's opinion requires such an amendment to be made in order to maintain the register's accuracy.

(3) Before making any amendment under paragraph (2)(a) or (d) the Registrar may make such further enquiries or require such further evidence from the registrant concerned as appears to the Registrar to be appropriate.

Registration period

10 (1) A person's registration period is to be determined in accordance with this rule.

(2) The first registration period of a person who, on the date of the coming into force of the first order made by the Privy Council under article 6 of the Order, is transferred to the register from a register maintained under the 1960 Act will end on the date that his last renewal of registration under the 1960 Act would have expired.

(3) Except as provided for in paragraph (2), a person's first registration period shall begin on the day on which he is first registered in respect of the profession concerned and shall end in the second calendar year after the year in which he was so registered on the date shown in column 2 of Schedule 5 opposite the part of the register shown in column 1 of Schedule 5 in which he is registered.

(4) In respect of any registrant, subject to paragraph (5), a registration period subsequent to the first registration period as determined in accordance with paragraph (2) or (3) shall begin on the day after the previous registration period ends and shall be of two years duration.

(5) If a person's name is removed from the register and he is thereafter readmitted or restored to the register, his registration period shall begin on the day on which he is readmitted or restored and shall end in the second calendar year after the year in which he was readmitted or restored on the date shown in column 2 of Schedule 5 opposite the part of the register shown in column 1 of Schedule 5 in which he is registered.

Renewal of registration

11. (1) Not less than 42 days before his registration period ends the Committee shall send to a registrant—

- (a) an application for the renewal of his registration in the form specified in Schedule 2;
- (b) notice of the renewal fee prescribed in rule 15; and
- (c) a notice warning the registrant that unless a completed application form accompanied by the renewal fee is received by the Committee on or before the date specified in the notice, the registrant is liable to be removed from the register.

(2) If an application accompanied by the renewal fee is not received by the Committee by the date specified in the notice sent under paragraph (1)(c) the Committee shall send a final notice to the registrant warning that unless his application and fee are received within 14 days (beginning with the day on which the Committee sent the final notice) the registrant's name may be removed from the register, and if no such application and payment is made the Committee may direct the Registrar to remove the registrant from the register on the expiry of the 14 days or, if later, when the registrant's registration period has ended.

(3) Any form, warning or notice to be given by the Committee to a registrant under this rule may be sent by post to the home address of the registrant as it appears in the register and shall be treated as sent at the time of its posting.

Application for removal from the register

12. (1) Without prejudice to any other power of the Registrar to remove a registrant's name from the register, the Registrar may remove the name of a registrant from the register upon written application made by or on behalf of that registrant.

(2) An application for the removal of a name from the register shall be made in writing and shall be accompanied by a declaration that the registrant concerned is not aware of any matter which could give rise to an allegation against him under article 22 of the Order.

(3) The Registrar may not remove the name of a registrant from the register under this rule if the registrant is subject to any allegation, investigation, proceedings or order of a kind mentioned in rule 13(5).

Lapse of registration

13. (1) Where in accordance with article 10(3) of the Order, the Committee renews a registrant's registration subject to a condition that he satisfies a specified requirement of article 10(2)(b) or (c) of the Order within a specified time, the Committee shall inform the registrant at the time it renews his registration that he must, before the expiry of the specified time, confirm in writing that he has complied with the condition and provide evidence which satisfies the Committee that he has done so.

(2) If, by the expiry of the specified time, the Committee—

- (a) does not receive the written confirmation and evidence; or
- (b) is not satisfied that the registrant has complied with the condition,

it shall send a notice to the registrant stating that, unless before the end of the period of 14 days beginning with the day on which the Committee sent the notice he provides the confirmation and evidence that he has complied with the condition his name will be removed from the register.

(3) If the written confirmation and evidence are not received or the Committee is not satisfied that the registrant has complied with the specified condition within the specified time, the Committee shall instruct the Registrar to remove the registrant's name from the register.

(4) Where the Committee instructs the Registrar to remove a registrant's name from the register in accordance with paragraph (3) the Committee shall send him a notice informing him of that fact and advising him of his right of appeal under article 37 of the Order.

(5) A person's registration shall not lapse and his name shall not be removed from the register under article 10(3) or 11 of the Order if that person—

- (a) is the subject of an allegation under article 22(1) of the Order (or is treated as if he were the subject of an allegation under article 22(6) of the Order) or is the subject of any investigation or proceedings under Part V or VI of the Order, on the grounds only that he has not paid the prescribed fee or has failed to apply for renewal in the prescribed form or within the prescribed time; or
- (b) is the subject of a suspension order, conditions of practice order, interim suspension order or interim conditions of practice order.

Registration fee

14. (1) Subject to paragraph (2) the fee to be charged for registration following an application for registration is—

- (a) in respect of the first registration period (as determined in accordance with rule 10(3)), where the applicant applies less than one year after the date on which he was first awarded an approved qualification, £60; and
- (b) in all other cases, £120.

(2) A person who, on the date of the coming into force of the first order made by the Privy Council under article 6 of the Order, is transferred to the register from a register maintained under the 1960 Act and whose first registration period is determined in accordance with rule 10(2) shall not be liable to pay a registration fee in respect of that first registration period.

Renewal and readmission fee

15. The fee to be charged for renewal of registration or for readmission to the register is £120.

Restoration fee

16. The fee to be charged for restoring an entry in the register is £120.

Scrutiny fee

17. (1) The fee to be charged for scrutinising an application for registration where the applicant is relying on article 12(1)(c), or is seeking to be treated as satisfying the requirements of article 9(2)(a) by virtue of article 13, of the Order is £200.

(2) The scrutiny fee shall be paid at the time an application for registration to which it applies is made.

Payment of fees

18. (1) Subject to paragraph (2) the Registrar shall not include a person's name in the register on an application for registration, readmission or restoration or, except as provided in rule 11, renew an entry in the register relating to any person, unless he has paid the prescribed registration fee, readmission fee, restoration fee or renewal fee.

(2) A person may, with the agreement of the Registrar, elect to pay any registration fee, readmission fee, restoration fee or renewal fee in four six-monthly instalments by direct debit and in that event—

- (a) the Registrar may make, renew or restore a register entry once the first instalment of that fee has been paid by direct debit; and
- (b) references in these Rules to an application being accompanied by any such fee shall be construed as if they were references to the application being accompanied by a direct debit mandate in respect of those fees.

(3) Where—

- (a) it has been agreed in accordance with paragraph (2) that any fee is to be paid in instalments by direct debit; and
- (b) following the payment of the first instalment and the making, renewal or restoration of a register entry, a subsequent payment is not made by the date on which it is due,

the Registrar shall send a notice to the registrant stating that, if payment is not received within 14 days (beginning with the day on which the Registrar sent the notice) the registrant's name may be removed from the register, and if no such payment is made, the Registrar may remove the registrant's name from the register.

(4) A person who satisfies the Council that he has retired from the practice of his profession, leaving unused his registration for a complete year of a registration period, shall, on written application to the Council, be given a refund of half the fee paid by him in respect of that registration period.

Sealed with the common seal of the Health Professions Council on 6th June 2003.

Norma Brook
President

Marc Seale
Registrar

SCHEDULE 1

Application Form for Admission to the Register

[TO FOLLOW]

SCHEDULE 2

Application Form for Renewal of Registration

[TO FOLLOW]

rule 4(2)(a)

SCHEDULE 3

Character Reference Form

Health Professions Order 2001

Before being registered under the Health Professions Order 2001 an applicant must satisfy the Health Professions Council that he or she is of good character. A reference as to the applicant's character is to be provided on this form by a person of professional standing in the community. This includes a health professional registered by the HPC, doctor, solicitor, accountant, bank manager, Justice of the Peace, principal of the institution which granted the applicant an approved qualification or a person authorised to provide character references by the principal of that institution, Minister of the Church, Rabbi, Imam or other religious official acceptable to the Council, who is not a relative[†] of the applicant and who has known the applicant for at least three years.

The Council may make further inquiries of the applicant or referee in order to verify or clarify any part of this reference.

Name of applicant: _____

I have known the above named person for ____ years and I know of no reason why he/she should not practise as a _____* with honesty and integrity.

Any additional information:

Name (please print):

Occupation:

Practice or Business address:

Telephone:

Please state in what capacity the applicant is known to you:

Signed:

Date:

NOTICE: Please ensure that all statements contained in this reference are true to the best of your knowledge, information and belief. Fraudulently procuring the making of a register entry under the Health Professions Order 2001 is a criminal offence.

*insert profession of applicant

† the term “relative” is broadly defined by The Health Professions Council (Registration and Fees) Rules 2003 as follows:

“relative”, in relation to any person, means—

- (a) his spouse;*
- (b) any lineal ancestor, lineal descendant, brother, sister, aunt, uncle, nephew, niece, or first cousin, of his or of his spouse; or*
- (c) the spouse of any relative mentioned in paragraph (b),*

and for the purposes of deducing any such relationship "spouse" includes a former spouse, a partner to whom the person is not married, and a partner of the same sex.

SCHEDULE 4

Health Reference Form

Health Professions Order 2001

Before being registered under the Health Professions Order 2001 an applicant must satisfy the Health Professions Council that he or she is of good health. A reference as to the applicant's health is to be provided on this form by a registered medical practitioner who is not a relative[†] of the applicant and who has either been the applicant's doctor for at least the past three years or who has examined the applicant's medical records made by a doctor who has been the applicant's doctor for that period.

A reference may be provided based on the registered medical practitioner's personal knowledge at the time the application is made without carrying out a formal health examination. However, the Council may require the applicant (at his or her own expense) to undergo such an examination in order to provide satisfactory evidence of good mental and physical health.

The Council may make further inquiries of the applicant or referee in order to verify or clarify any part of this reference.

Name of applicant: _____

§ I have been the applicant's doctor for the last ____ years and am satisfied he/she is of good health both physically and mentally. I am not aware of any circumstances which would affect the his/her capacity to practise as a _____*.

§ I have examined the medical records of the applicant made by a registered medical practitioner who was the applicant's doctor for at least the last three years and am satisfied that there appears to be no medical reason which would affect his/her capacity to practise as a _____*.

Any additional information:

Name (please print):

Practice address:

Telephone:

Signed:

Date:

NOTICE: Please ensure that all statements contained in this reference are true to the best of your knowledge, information and belief. Fraudulently procuring the making of a register entry under the Health Professions Order 2001 is a criminal offence.

§ delete as appropriate

*insert profession of applicant

† the term “relative” is broadly defined by The Health Professions Council (Registration and Fees) Rules 2003 as follows:

“relative”, in relation to any person, means—

- (a) his spouse;*
- (b) any lineal ancestor, lineal descendant, brother, sister, aunt, uncle, nephew, niece, or first cousin, of his or of his spouse; or*
- (c) the spouse of any relative mentioned in paragraph (b),*

and for the purposes of deducing any such relationship "spouse" includes a former spouse, a partner to whom the person is not married, and a partner of the same sex.

SCHEDULE 5

Registration Period

Column 1	Column 2
Part of Register	End of registration period
Arts Therapists: Music, Drama or Art	31st May
Chiropodists (Chiropodists and Podiatrists)	31st July
Clinical Scientists	30th September
Dietitians	30th June
Medical Laboratory Technicians (Biomedical Scientists)	30th November
Occupational Therapists	31st October
Orthoptists	31st August
Paramedics	31st August
Physiotherapists	30th April
Prosthetists and Orthotists	30th September
Radiographers: Diagnostic or Therapeutic	28th February
Speech and Language Therapists	30th September

**THE HEALTH PROFESSIONS COUNCIL
(SCREENERS) RULES 2003**

The Health Professions Council, in exercise of its powers under articles 23, 24, 32(2) and 41(2) of the Health Professions Order 2001^(a) and of all other powers enabling it in that behalf and after consulting in accordance with article 41(3) of that Order, hereby makes the following Rules:

Citation and commencement

1. These Rules may be cited as the Health Professions Council (Screeners) Rules 2003 and shall come into force on 9th July 2003.

Interpretation

2. In these Rules:

“allegation” means any allegation of a kind mentioned in article 22(1)(a) of the Order or any matter which is treated as an allegation in respect of fitness to practise by virtue of action taken under article 22(6) of the Order;

“Conduct and Competence Committee” shall be construed in accordance with article 3(9) of the Order;

“health professional” means a person whose name appears in the register against whom an allegation has been made and includes a person whose registration is currently suspended;

“lay screener” shall be construed in accordance with rule 3(2)(a);

“Health Committee” shall be construed in accordance with article 3(9) of the Order;

“panel” shall be construed in accordance with rule 4;

“the Order” means the Health Professions Order 2001; and

“registrant screener” shall be construed in accordance with rule 3(2)(b).

Appointment of Screeners

3. (1) The Council may appoint persons to be Screeners in accordance with article 23 of the Order.

- (2) Screeners shall be appointed—

(a) S.I. 2002/254.

- (a) from among persons who are not and never have been members of a health or social care profession which is regulated under any enactment (“lay screeners”); and
- (b) from among registrants (“registrant screeners”),

who have such qualifications, interests and experience as, in the opinion of the Council, will enable them to perform the functions of Screeners.

- (3) There shall be at least one registrant screener appointed from each part of the register.
- (4) A person may not be appointed as a registrant screener nor act as such if he is subject to any investigations, proceedings or determination against him concerning his fitness to practise his profession.

Panels

- 4. (1) Any allegation which is referred to the Screeners shall be considered by a panel of at least two Screeners.
- (2) If a panel—
 - (a) comprises two Screeners, it shall consist of one lay screener and one registrant screener;
 - (b) comprises more than two Screeners, it shall consist of at least one lay screener and one registrant screener and the number of registrant screeners shall not exceed the number of lay screeners.
- (3) In appointing a registrant screener to a panel the Council shall have due regard to the professional field of the health professional and to the allegation under consideration.

Consideration of allegations

- 5. (1) A panel shall consider any allegation which is referred to it and shall establish whether power is given by the Order to deal with the allegation if it proves to be well founded.
- (2) Where a panel decides that power is not given by the Order to deal with an allegation, subject to paragraph (3), it shall close the case and inform the Registrar of its decision.
- (3) Where a panel comprises two Screeners, a decision to close a case may only be made by a unanimous decision but where a panel comprises more than two Screeners it may be made by a majority decision.
- (4) Where—
 - (a) a decision to close a case cannot be reached in accordance with paragraph (3); or
 - (b) a panel determines that power is given by the Order to deal with an allegation,

the panel shall refer the allegation to such Practice Committee as it sees fit and shall submit the report of the result of its consideration of the allegation to that Committee.

(5) Where a panel refers any allegation to the Health Committee or Conduct and Competence Committee the Council shall give notice of the referral to—

- (a) where known, the employer of the health professional or any other person with whom he has an arrangement to provide professional services;
- (b) where known, any other body by which the health professional is authorised to practise a health or social care profession; and
- (c) the Secretary of State, the Scottish Ministers, the National Assembly for Wales, and the Department of Health, Social Services and Public Safety in Northern Ireland.

Mediation

6. (1) Where the Screeners are requested by a Practice Committee to mediate in a case, a panel shall undertake mediation with the aim of dealing with an allegation without it being necessary for the case to reach the stage at which the Health Committee or Conduct and Competence Committee would arrange a hearing in accordance with article 32(2)(f) of the Order.

(2) In undertaking any mediation a panel may adopt such procedure as it sees fit.

(3) The Council shall not appoint a Screener to be a member of a panel undertaking mediation unless he holds such qualification or has undergone such training as the Council may determine.

(4) A panel shall report the outcome of any successful mediation to the Practice Committee which referred the case to the Screeners and its report shall include the terms on which the case was resolved.

(5) A panel shall refer any case in which mediation fails back to the Practice Committee which referred the case to the Screeners.

Sealed with the common seal of the Health Professions Council on 6th June 2003.

Norma Brook
President

Marc Seale
Registrar

**THE HEALTH PROFESSIONS COUNCIL
(REGISTRATION APPEALS) RULES 2003**

The Health Professions Council, in exercise of its powers under articles 37(1), (4) and (5) and 41(2) of the Health Professions Order 2001^(a) and of all other powers enabling it in that behalf and after consulting in accordance with article 41(3) of that Order, hereby makes the following Rules:

Citation and commencement

1. These rules may be cited as the Health Professions Council (Registration Appeals) Rules 2003 and shall come into force on 9th July 2003.

Interpretation

2. In these Rules—

“appeal” means an appeal which is made to the Council in accordance with article 37(1) of the Order;

“Appeal Panel” means a panel appointed under rule 9 to consider an appeal;

“appellant” means a person who makes an appeal;

“Chairman” means the chairman of an Appeal Panel;

“Committee” means the Education and Training Committee of the Council; and

“Order” means the Health Professions Order 2001.

Service of Documents

3. (1) In these rules a reference to the sending of a notice or other document to any person is a reference to it being sent—

- (a) in the case of the Council, the Committee, an Appeal Panel or the Registrar, to the offices of the Council;
- (b) in the case of the appellant, to the address identified in his notice of appeal; and
- (c) in all other cases, to the last known address of that person.

(2) All communications to be sent for the purposes of these rules may be sent by post and any such communication shall be treated as having been sent on the day on which it was posted.

(a) S.I. 2002/254.

Period during which an appeal may be made

4. The period within which the person aggrieved may appeal to the Council under article 37(1) of the Order is—

- (a) where the appeal is against a decision referred to in sub-paragraph (a), (b) or (c) of that article, before the end of the period of 28 days beginning with the day on which the Committee made the decision; or
- (b) where the appeal is against a failure to issue a decision as referred to in sub-paragraph (d) of that article, before the end of the period of 28 days beginning with the day after the end of the period specified in the applicable regulations referred to in article 9(5) of the Order as the period within which a decision on the application is to be notified.

Notice of appeal

5. (1) An appeal shall be made by giving notice in writing in accordance with the following paragraphs.

(2) The notice shall be addressed to the Registrar at the offices of the Council and shall—

- (a) include—
 - (i) the name and address of the appellant,
 - (ii) his registration number (where applicable),
 - (iii) where the appeal is against a decision referred to in article 37(1)(a), (b) or (c) of the Order, the date, nature and other relevant details of the decision against which the appeal is brought,
 - (iv) where the appeal is against a failure to issue a decision as referred to in article 37(1)(d) of the Order, the date, nature and other relevant details of the application in respect of which there has been a failure to issue a decision,
 - (v) a concise statement of the grounds of the appeal, and
 - (vi) the name and address of the appellant's representative (if any) and a statement as to whether the Council should correspond with that representative concerning the appeal instead of with the appellant;
- (b) state that the notice is a notice of appeal; and
- (c) be signed by or on behalf of the appellant.

(3) The appellant shall attach to the notice of appeal a copy of any documents on which he proposes to rely for the purposes of the appeal.

Acknowledgment by the Council

6. Upon receiving a valid notice of appeal the Council shall send the appellant a notice acknowledging its receipt and informing the appellant—

- (a) that he may before the end of the period of 28 days beginning with the date on which the notice was sent request that a hearing be held;
- (b) that, even if he does not request a hearing, the Council may hold a hearing if it considers it to be desirable; and
- (c) that he may be heard and be represented at such a hearing.

Notice of hearing

7. (1) If the appellant has requested that a hearing be held, or the Council determines that it would be desirable to hold a hearing, the Council shall fix a day on which it is to hear the case and send notice to the parties of the day, time and venue for the hearing.

(2) The Council shall not fix a date for the hearing which is before the end of the period of 28 days beginning with the day on which the Council sent the notice referred to in paragraph (1) to the appellant.

Parties, representation etc.

8. (1) Before the end of the period of 28 days beginning with the day on which the notice referred to in rule 7(1) is sent, the parties shall inform the Council whether or not they intend to attend or be represented at the hearing and whether or not they intend to call any witnesses and, if so, shall provide their names and addresses to the Council.

(2) An appellant who does not intend to attend or be represented at a hearing may, before the beginning of the period of 7 days ending with the date on which the hearing is to be held, send to the Council additional written representations in support of his appeal.

(3) The Committee shall be the respondent in any proceedings.

(4) The appellant may be represented in any proceedings by any person, whether or not legally qualified, except a member of the Council or any of its committees or a person employed by the Council.

(5) The Council may invite any person who, in its opinion, has an interest in the proceedings to make written representations and any such representations shall be sent to the Council before the end of the period of 14 days beginning with the date on which the invitation is sent to that person.

Consideration by Appeal Panel

9. (1) Except where the Council considers an appeal itself, an appeal shall be considered by an Appeal Panel appointed by the Council for that purpose.

(2) The quorum of the Council when considering an appeal is seven and shall consist of registrant members and lay members and the number of members who are registrants may exceed the number of lay members but may not exceed them by more than one.

(3) An Appeal Panel shall comprise not fewer than three persons selected with due regard to the matter under consideration and shall include—

- (a) a person who is registered in the same part of the register as that in which the appellant is, or is applying to be, registered;
- (b) a person who has never been admitted to the register (or any register kept under the Professions Supplementary to Medicine Act 1960) and who is not a registered medical practitioner; and
- (c) where the health of the appellant is in issue, a registered medical practitioner.

(4) A member of the Council shall be appointed as Chairman.

(5) A person who has been involved in any other capacity in a case which is to be considered by an Appeal Panel shall not be appointed as a member of that Panel.

(6) Decisions by an Appeal Panel shall be made by a majority vote of those present and, in the event of a tie, the Chairman shall have an additional casting vote which shall be exercised in favour of the appellant.

Preliminary meetings

10. (1) The Appeal Panel or the Chairman may hold a preliminary meeting in private with the parties, their representatives and any other person it or he considers appropriate if such a meeting would, in its or his opinion, assist the panel to perform its functions.

(2) At any meeting he conducts under paragraph (1) the Chairman may give directions under article 32(3) of the Order and, with the agreement of the parties, take any action which the Appeal Panel would be competent to take at such a meeting.

Powers to determine an appeal without a hearing

11. (1) The Appeal Panel may determine an appeal without an oral hearing on the basis of any documents provided by the appellant under rule 5 or 8(2) where—

- (a) the Council does not receive a reply from the appellant within the time specified in rule 8(1) and the Appeal Panel is satisfied that all reasonable steps have been taken to give notice under rule 7(1), or the appellant replies under rule 8(1) to the effect that he does not wish to attend or be represented;
- (b) the Appeal Panel has notified the appellant and the Committee of its intention to do so; and

- (c) the Appeal Panel considers it desirable to do so having taken into account any representations received in response to the notice referred to in paragraph (b).

(2) If the Appeal Panel decides under paragraph (1) to determine an appeal without an oral hearing, it may take into account any written representations provided in accordance with rule 8(5) or written representations from the Committee received by the Council before the beginning of the period of 7 days ending with the date on which the Appeal Panel determines the appeal.

Postponement or adjournment of hearing

12. (1) The Appeal Panel, either of its motion or at the request of a party to the hearing, may postpone a hearing at any time before it begins and may adjourn the proceedings from time to time as it thinks fit.

(2) Where a hearing is postponed the Registrar shall send the appellant notice of the date on which the Appeal Panel is to hold the postponed hearing.

(3) The date for a postponed hearing shall not be fixed for any date before the end of the period of 14 days beginning with the day on which the Registrar sends the notice referred to in paragraph (2) to the appellant.

Absence of the appellant

13. Where—

- (a) the Council has fixed a date for a hearing; and
- (b) the appellant has informed the Council that he intends to attend or be represented; but
- (c) he does not attend and is not represented,

the Appeal Panel may nevertheless proceed with the hearing if it is satisfied that all reasonable steps have been taken to give notice of the hearing to the appellant.

Conduct of hearing

14. (1) The hearing shall be held in public unless the Appeal Panel is satisfied that, in the interests of justice or for the protection of the private life of the health professional, the complainant, any person giving evidence or of any patient or client, the public should be excluded from all or part of the hearing.

(2) At the beginning of the hearing the Chairman shall explain to the parties the order of proceedings which the Appeal Panel proposes to adopt.

(3) The Appeal Panel shall conduct the hearing in such manner as it considers most suitable to the clarification of the issues before it and generally to the just handling of the

proceedings and the parties shall be heard in such order as the Appeal Panel shall determine having regard to the following—

- (a) the appellant may present his case in support of his appeal;
- (b) the appellant or any person called on his behalf may be cross-examined by the Committee and, in the case of a person called on his behalf, re-examined by the appellant;
- (c) the Committee may present its case in support of the decision appealed against or its failure to issue a decision;
- (d) the Committee or any person called on its behalf may be cross-examined by the appellant and, in the case of a person called on its behalf, re-examined by the Committee;
- (e) the Committee may address the Appeal Panel on its case in respect of the decision appealed against or its failure to issue a decision; and
- (f) the appellant may address the Appeal Panel on his case in respect of his appeal.

(4) The parties shall be entitled to give evidence, to call witnesses, to question any witnesses and to address the Appeal Panel both on the evidence and generally on the subject matter of the appeal.

(5) Subject to paragraph (6) where the appellant or the Committee are represented, references in paragraphs (3) and (4) to the Committee or the appellant—

- (a) presenting the case;
- (b) calling, or questioning witnesses;
- (c) cross-examining or re-examining witnesses; or
- (d) addressing the panel,

shall be read as references to the representative of the Committee or the appellant as the case may be.

(6) Except as provided in paragraph (5) references in paragraph (3) to the Committee shall be references to the Chairman of the Committee or any other person nominated by the Committee to appear on its behalf.

Procedure at hearing

15. (1) Subject to paragraph (3) the rules on the admissibility of evidence that apply in civil proceedings in the appropriate court in that part of the United Kingdom in which the hearing takes place shall apply.

(2) In paragraph (1) the “appropriate court” means a county court or, in Scotland, a sheriff.

(3) The Appeal Panel may hear or receive evidence which would not be admissible in such proceedings if it is satisfied that admission of that evidence is necessary in order to protect members of the public.

(4) The Appeal Panel may require any person (other than the appellant) to attend a hearing and give evidence or produce documents.

(5) At any hearing the Appeal Panel may, if it is satisfied that it is just and reasonable to do so, permit a party to rely on grounds not stated in the notice of appeal or to adduce any evidence not presented to the Committee before it took the disputed decision.

(6) Where the appellant has been convicted of a criminal offence, a certified copy of the certificate of conviction (or, in Scotland, an extract conviction) shall be admissible as proof of that conviction and of the findings of fact upon which it was based.

(7) The Appeal Panel may require evidence to be given on oath or affirmation and for that purpose may administer oaths or affirmations in an appropriate form.

Disposal of cases

16. The Appeal Panel shall notify the appellant of its decision and the reasons for reaching that decision and shall inform the appellant of his right to appeal to a county court or, in Scotland, a sheriff under article 37(10) of the Order.

Consideration of cases by Council

17. Where the Council considers an appeal, references in these Rules to an Appeal Panel, other than in the definition in rule 2 of “Appeal Panel”, rule 3(1)(a) and 9(1) and (3), shall be construed as references to the Council.

Sealed with the common seal of the Health Professions Council on 6th June 2003.

Norma Brook
President

Marc Seale
Registrar

**THE HEALTH PROFESSIONS COUNCIL
(FUNCTIONS OF ASSESSORS) RULES 2003**

The Health Professions Council, in exercise of its powers under articles 34(4), 35(3) and 36(3) of the Health Professions Order 2001^(a) and of all other powers enabling it in that behalf and after consulting in accordance with article 41(3) of that Order, hereby makes the following rules:

Citation and commencement

1. These Rules may be cited as the Health Professions Council (Functions of Assessors) Rules 2003 and shall come into force on 9th July 2003.

Interpretation

2. In these Rules—

“appeal hearing” means a hearing held to consider an appeal under article 37 of the Order;

“the Order” means the Health Professions Order 2001; and

“Part V hearing” means a hearing before—

- (a) the Investigating Committee in respect of an allegation under article 22(1)(b) of the Order or any matter which is treated as such an allegation in accordance with article 22(6) of the Order;
- (b) the Health Committee under Part V of the Order;
- (c) the Conduct and Competence Committee under Part V of the Order.

Additional functions of legal assessors

3. A legal assessor shall have the following additional functions—

- (a) to be present at any Part V hearing held by a Practice Committee;
- (b) to be present at any appeal hearing held by the Council; and
- (c) where he is present at any hearing referred to in paragraph (a) or (b), to inform the Practice Committee or Council (as the case may be) of any irregularity in its consideration of the matter which is the subject of the hearing, or in the conduct of the hearing, which may come to his knowledge and to advise on the steps which may be taken (if any) to remedy the irregularity.

(a) S.I. 2002/254.

Additional functions of medical assessors

4. A medical assessor shall have the following additional functions—

- (a) to be present at any Part V hearing held by a Practice Committee as the Practice Committee may request;
- (b) to be present at any appeal hearing held by the Council as the Council may request;
- (c) where he is present at any hearing referred to in paragraph (a) or (b) and it appears to him that, without his advice, a mistake may be made in judging the medical significance of information (or the absence of information) in relation to the hearing of informing the Practice Committee or Council and the parties to the proceedings of that; and
- (d) at the request of a Practice Committee or the Council, to examine and report on the physical or mental condition of a person who is the subject of any hearing referred to in paragraph (a) or (b) and who consents to such an examination.

Additional functions of registrant assessors

5. A registrant assessor shall have the following additional functions—

- (a) to be present at any Part V hearing held by a Practice Committee as the Practice Committee may request;
- (b) to be present at any appeal hearing held by the Council as the Council may request;
- (c) where he is present at any hearing referred to in paragraph (a) or (b) and it appears to him that, without his advice, a mistake may be made in judging the significance of information (or the absence of information) relating to any matter of professional practice within his professional competence in relation to the hearing, of informing the Practice Committee or Council and the parties to the proceedings of that.

Sealed with the common seal of the Health Professions Council on 6th June 2003.

Norma Brook
President

Marc Seale
Registrar