

STATUTORY INSTRUMENTS

2002 No. 254

The Health Professions Order 2001

PART VIII MISCELLANEOUS

PROSPECTIVE

Further provisions

40.—(1) The Privy Council may make provision by order with regard to the functions of legal assessors and in particular provision may be made—

- (a) requiring legal assessors, when advising the Council or any of its committees, to do so in the presence of the parties or their representatives or, where advice is given in private, requiring the parties to be notified of the advice tendered by the legal assessors;
- (b) requiring the parties to be notified in any case where the legal assessor's advice is not accepted.

(2) Paragraph (1)(a) and (b) shall not apply to advice given by a legal assessor in respect of the drafting of a decision mentioned in article 34(3).

Commencement Information

- II** Art. 40 not in force at made date, see [art. 1\(2\)](#)

PROSPECTIVE

Rules and orders

41.—(1) No rules under this Order shall come into force until approved by order of the Privy Council.

(2) Any rules made by the Council and any order of the Privy Council made under this Order may make different provision with respect to different cases or classes of case.

(3) Before making any rules under this Order, the Council shall consult representatives of any group of persons who appear likely to be affected by the proposed rules and these may include such persons as appear to it to be representative of—

- (a) registrants or classes of registrant;
- (b) employers of registrants;
- (c) users of the services of registrants; or

Status: This version of this part contains provisions that are prospective.

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- (d) persons providing, assessing or funding education and training for registrants and prospective registrants.

Commencement Information

I2 Art. 41 not in force at made date, see [art. 1\(2\)](#)

PROSPECTIVE

Exercise of powers by the Privy Council

42.—(1) Where the approval of the Privy Council is required by this Order in respect of the making of any rules by the Council, it shall be given by an order made by the Privy Council.

(2) Any power of the Privy Council under this Order to make an order shall be exercisable by statutory instrument.

(3) Any order under this Order shall be subject to annulment in pursuance of a resolution of either House of Parliament but this does not apply to an order made under article 48(2) or Schedule 2, paragraph 19, 20 or 21.

(4) For the purpose of exercising any powers conferred by this Order the quorum of the Privy Council shall be two.

(5) Any act of the Privy Council under this Order shall be sufficiently signified by an instrument signed by the Clerk of the Privy Council.

(6) Any document purporting to be—

- (a) an instrument made by the Privy Council under this Order; and
- (b) signed by the Clerk of the Privy Council, shall be evidence (and in Scotland sufficient evidence) of the fact that the instrument was so made and of its terms.

Commencement Information

I3 Art. 42 not in force at made date, see [art. 1\(2\)](#)

PROSPECTIVE

Default powers of the Privy Council

43.—(1) If it appears to the Privy Council that the Council has failed to perform any functions which, in the opinion of the Privy Council, should have been performed, the Privy Council may notify the Council of its opinion and require the Council to make representations to it.

(2) The Privy Council may, having considered the representations of the Council, give such directions (if any) to the Council as it considers appropriate.

(3) If the Council fails to comply with any directions given under this article, the Privy Council may give effect to the direction.

(4) Subject to paragraph (5), for the purpose of giving effect to a direction under paragraph (3), the Privy Council may—

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- (a) exercise any power of the Council or do any act or other thing authorised to be done by the Council; and
- (b) do, of its own motion, any act or other thing which it is otherwise authorised to do under this Order at the instigation of the Council.

(5) The Privy Council shall not exercise the power in paragraph (4) to make, amend, remove or restore an entry in the register in respect of an individual, nor to refuse to do so.

(6) The powers under paragraphs (1) and (2) may be exercised by a person authorised or designated by the Privy Council for that purpose.

Commencement Information

I4 Art. 43 not in force at made date, see [art. 1\(2\)](#)

PROSPECTIVE

Annual reports

44.—(1) The Council shall publish at least once in each calendar year a statistical report which indicates the efficiency and effectiveness of the arrangements it has put in place to protect the public from persons whose fitness to practise is impaired, together with the Council’s observations on the report.

(2) The Council shall—

- (a) within such time as directed by the Privy Council, submit a report to it on the Council’s exercise of its functions during the period specified by the Privy Council; and
- (b) thereafter submit such a report once in each calendar year in respect of the period since its last such report.

(3) The Privy Council shall lay before each House of Parliament a copy of the report submitted by the Council under paragraph (2).

Commencement Information

I5 Art. 44 not in force at made date, see [art. 1\(2\)](#)

PROSPECTIVE

Finances of the Council

45.—(1) The Council may charge such fees in connection with the exercise of its functions as it may, with the approval of the Privy Council, determine.

(2) Subject to this article, the expenses of the Council are to be met out of fees received by the Council and other sums paid to it in connection with the exercise of its functions.

(3) The Secretary of State or an appropriate authority may make grants or loans to the Council towards expenses incurred, or to be incurred by it—

- (a) in connection with the process of the implementation of this Order, or

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(b) for such other purposes in connection with the professions regulated by this Order as may be approved by the Secretary of State or the appropriate authority and agreed with the Council.

(4) In this paragraph, “appropriate authority” means the National Assembly for Wales, the Scottish Ministers or the Department of Health, Social Services and Public Safety in Northern Ireland.

Commencement Information

I6 Art. 45 not in force at made date, see [art. 1\(2\)](#)

PROSPECTIVE

Accounts of the Council

46.—(1) The Council shall—

- (a) keep accounts in such form as the Privy Council may determine;
- (b) prepare annual accounts in respect of each financial year, in such form as the Privy Council may determine.

(2) The annual accounts shall be audited by persons the Council appoints.

(3) No person may be appointed as an auditor under paragraph (2) unless he is eligible for appointment as a company auditor under section 25 of the Companies Act 1989 or article 28 of the Companies (Northern Ireland) Order 1990.

(4) As soon as is reasonably practicable after the end of the financial year to which the annual accounts relate, the Council shall—

- (a) cause them to be published together with any report on them made by the auditors; and
- (b) send a copy of the annual accounts and of any such report to the Privy Council and to the Comptroller and Auditor General.

(5) The Comptroller and Auditor General shall examine, certify and report on the annual accounts.

(6) For the purposes of his examination, the Comptroller and Auditor General may inspect the accounts of the Council and any records relating to them.

(7) The Privy Council shall lay before each House of Parliament a copy of the annual accounts certified by the Comptroller and Auditor General, any report of the auditors and the report of the Comptroller and Auditor General prepared under paragraph (5).

(8) In this article, “financial year” means—

- (a) the period beginning with the date on which the Council is established and ending with the next 31st March following that date, and
- (b) each successive period of 12 months ending with 31st March.

Commencement Information

I7 Art. 46 not in force at made date, see [art. 1\(2\)](#)

PROSPECTIVE

Inquiry by the Privy Council

47.—(1) The Privy Council may cause an inquiry to be held into any matter connected with the exercise by the Council of its functions.

(2) Before an inquiry is begun, the Privy Council may direct that it shall be held in public.

(3) Where no direction has been given, the person holding the inquiry may if he thinks fit hold it, or any part of it, in private.

(4) For the purpose of any such inquiry (but subject to paragraph (5)) the person appointed to hold the inquiry—

(a) may by summons require any person to attend, at a time and place stated in the summons, to give evidence or to produce any documents in his custody or under his control which relate to any matter in question at the inquiry; and

(b) may take evidence on oath, and for that purpose administer oaths, or may, instead of administering an oath, require the person examined to make a solemn affirmation.

(5) Nothing in this article requires a person, in obedience to a summons under the article, to attend to give evidence or to produce any documents unless the necessary expenses of his attendance are paid or tendered to him.

(6) Any person who refuses or deliberately fails to attend in obedience to a summons under this article, or to give evidence, or who deliberately alters, suppresses, conceals, destroys, or refuses to produce any book or other document which he is required or is liable to be required to produce for the purposes of this article, shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(7) Where the Privy Council causes an inquiry to be held under this article—

(a) the costs incurred by it in relation to the inquiry (including such reasonable sum as it may determine for the services of any officer engaged in the inquiry) shall be paid by such party to the inquiry as it may direct; and

(b) it may cause the amount of the costs so incurred to be certified, and any amount so certified and directed to be paid by any person shall be recoverable from that person by the Privy Council summarily as a civil debt.

(8) Where the Privy Council causes an inquiry to be held under this article it may make orders—

(a) as to the costs of the parties at the inquiry; and

(b) as to the parties by whom costs are to be paid,

and every such order may be made a rule of the appropriate court on the application of any party named in the order.

(9) “Appropriate court” has the same meaning as in article 38(5).

Commencement Information

18 Art. 47 not in force at made date, see [art. 1\(2\)](#)

Supplementary and transitional provisions and extent

48.—(1) The transitional provisions contained in Schedule 2 to this Order shall apply.

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(2) The Privy Council may by order make such further transitional provisions as it considers appropriate.

(3) The consequential amendments contained in Schedule 4 to this Order shall apply.

(4) This Order extends to the whole of the United Kingdom.

Commencement Information

19 Art. 48(4) in force at made date, see [art. 1\(2\)](#)

Status:

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Changes to legislation:

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Changes and effects yet to be applied to :

- Order title substituted by [2012 c. 7 s. 213\(6\)](#)
- Order title substituted by [2017 c. 16 Sch. 5 para. 45](#)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

- Blanket amendment words substituted by [S.I. 2011/1043 art. 3-68-10](#)

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 1 para. 1A(1)(b)(ia) inserted by [2012 c. 7 s. 213\(5\)](#)
- Sch. 1 para. 19(10A)-(10C) inserted by [2015 c. 28 Sch. para. 6\(4\)](#)
- Sch. 1 para. 1(2A) inserted by [S.I. 2009/1182 Sch. 2 para. 17\(1\)\(a\)\(iii\)](#)
- Sch. 1 para. 1(5) inserted by [S.I. 2009/1182 Sch. 2 para. 18\(b\)](#)
- Sch. 1 para. 9(1A)(1B) inserted by [S.I. 2009/1182 Sch. 2 para. 17\(1\)\(c\)\(ii\)](#)
- Sch. 1 para. 9(1C) inserted by [S.I. 2009/1182 Sch. 2 para. 18\(f\)\(ii\)](#)
- Sch. 1 para. 1A(1)(b)(ia) omitted by [2017 c. 16 Sch. 5 para. 26](#)
- Sch. 1 para. 1A(4) omitted by [S.I. 2013/235 Sch. 2 para. 52](#)
- Sch. 1 para. 16A revoked by [2006 c. 28 Sch. 8 para. 48 Sch. 9](#)
- Sch. 1 para. 17(1)-(2B) substituted for Sch. 1 para. 17(1)(2) by [S.I. 2009/1182 Sch. 2 para. 15\(7\)](#)
- Sch. 1 para. 1A1B substituted for Sch. 1 paras. 1-12 by [S.I. 2009/1182 Sch. 2 para. 15\(2\)](#)
- Sch. 1 Pt. 1 para. 16A inserted by [2003 c. 43 Sch. 12 para. 8](#)
- Sch. 2 para. 25-27 added by [S.I. 2004/2033 art. 3\(3\)\(f\)](#)
- Sch. 2 para. 25 coming into force by [S.I. 2002/254 art. 1\(3\)](#)
- Sch. 2 para. 26 coming into force by [S.I. 2002/254 art. 1\(3\)](#)
- Sch. 2 para. 27 coming into force by [S.I. 2002/254 art. 1\(3\)](#)
- Sch. 2 para. 3(4A) inserted by [S.I. 2004/2033 art. 3\(3\)\(c\)](#)
- art. 3(4)(4A) substituted for art. 3(4) by [2015 c. 28 Sch. para. 6\(2\)](#)
- art. 3(5)-(5B) substituted for art. 3(5) by [S.I. 2009/1182 Sch. 2 para. 1\(a\)](#)
- art. 3(5)(b)(vi)(vii) inserted by [2012 c. 7 s. 215\(2\)\(c\)](#)
- art. 3(5)(b)(vi)(vii) omitted by [2017 c. 16 Sch. 5 para. 11\(2\)\(c\)](#)
- art. 3(5AA) inserted by [2012 c. 7 s. 215\(3\)](#)
- art. 3(5AA) omitted by [2017 c. 16 Sch. 5 para. 11\(3\)](#)
- art. 3(5ZA) inserted by [2012 c. 7 s. 218\(3\)](#)
- art. 3(7A) inserted by [S.I. 2009/1182 Sch. 2 para. 1\(c\)](#)
- art. 3(17A) inserted by [2012 c. 7 s. 215\(4\)](#)
- art. 6(3)(aa) inserted by [S.I. 2007/3101 reg. 267](#)
- art. 6(3)(aa) omitted by [S.I. 2019/593 Sch. 8 para. 3](#)
- art. 6(3)(aa) words inserted by [2012 c. 7 s. 215\(5\)](#)
- art. 6(3)(aa) words omitted by [2017 c. 16 Sch. 5 para. 12](#)
- art. 7(4) inserted by [S.I. 2007/3101 reg. 268](#)
- art. 7(4) omitted by [S.I. 2019/593 Sch. 8 para. 4](#)
- art. 7(4) words inserted by [2012 c. 7 s. 215\(5\)\(b\)](#)

- art. 7(4) words omitted by 2017 c. 16 Sch. 5 para. 13
- art. 7A inserted by S.I. 2023/1286 Sch. 3 para. 70
- art. 9(2)(ba) inserted by S.I. 2014/1887 Sch. 1 para. 12(d)
- art. 9(3A) inserted by S.I. 2014/1887 Sch. 1 para. 12(e)
- art. 9(3A) omitted by 2017 c. 16 Sch. 5 para. 14(2)
- art. 9(4A) inserted by S.I. 2023/1286 Sch. 3 para. 71(b)
- art. 9(5)(a)(b) substituted for words by S.I. 2023/1286 Sch. 3 para. 71(c)
- art. 9(8) inserted by S.I. 2007/3101 reg. 270(d)
- art. 9(8) omitted by S.I. 2019/593 Sch. 8 para. 6(c)
- art. 9(8) words inserted by 2012 c. 7 s. 215(5)(b)
- art. 9(8) words omitted by 2017 c. 16 Sch. 5 para. 14(3)
- art. 9A inserted (temp.) by 2020 c. 7 Sch. 1 para. 2(2)
- art. 10(2)(aa) inserted by S.I. 2014/1887 Sch. 1 para. 13(d)
- art. 10(4)(aa) inserted by S.I. 2014/1887 Sch. 1 para. 13(e)
- art. 10(6) inserted by S.I. 2007/3101 reg. 271(b)
- art. 10(6) omitted by S.I. 2019/593 Sch. 8 para. 7(b)
- art. 10(6) words inserted by 2012 c. 7 s. 215(6)
- art. 10(6) words omitted by 2017 c. 16 Sch. 5 para. 15(2)
- art. 10(7) inserted by S.I. 2014/1887 Sch. 1 para. 13(f)
- art. 10(7) omitted by 2017 c. 16 Sch. 5 para. 15(3)
- art. 11A inserted by S.I. 2014/1887 Sch. 1 para. 14
- art. 11A(11) omitted by 2017 c. 16 Sch. 5 para. 16
- art. 11A(12) omitted by S.I. 2019/593 Sch. 8 para. 8
- art. 12(1)(c)(III) coming into force by S.I. 2002/254 art. 1(3)
- art. 12(1)(d) and word inserted by 2012 c. 7 s. 215(7)(b)
- art. 12(1)(d) and word omitted by 2017 c. 16 Sch. 5 para. 17(2)(b)
- art. 12(1)(ba) inserted by S.I. 2016/1030 reg. 147(2)
- art. 12(1)(ba) omitted by S.I. 2019/593 Sch. 8 para. 9(a)(ii)
- art. 12(1A) inserted by S.I. 2007/3101 reg. 272(b)
- art. 12(1A) omitted by S.I. 2019/593 Sch. 8 para. 9(b)
- art. 12(1ZA)-(1ZD) inserted by S.I. 2023/1286 Sch. 3 para. 72
- art. 12(2)(c) and word inserted by 2012 c. 7 s. 215(8)(b)
- art. 12(2)(c) and word omitted by 2017 c. 16 Sch. 5 para. 17(3)(b)
- art. 12A inserted by S.I. 2023/1286 Sch. 3 para. 73
- art. 13(1)(c) substituted by S.I. 2009/1182 Sch. 2 para. 3(a)
- art. 13(1)(d) words added by S.I. 2009/1182 Sch. 2 para. 3(b)
- art. 13(1B) inserted by S.I. 2012/1479 art. 2(b)
- art. 13(1B) omitted by 2017 c. 16 Sch. 5 para. 18(3)
- art. 13A inserted by S.I. 2007/3101 reg. 273
- art. 13A omitted by S.I. 2019/593 Sch. 8 para. 10
- art. 13A title substituted by 2012 c. 7 s. 215(5)(a)
- art. 13A heading words substituted by 2017 c. 16 Sch. 5 para. 19
- art. 13A(2) substituted by S.I. 2016/1030 reg. 148(2)
- art. 13A(5) word substituted by S.I. 2016/1030 reg. 148(3)(a)
- art. 13A(5) word substituted by S.I. 2016/1030 reg. 148(3)(b)
- art. 13B inserted by 2012 c. 7 s. 215(9)
- art. 13B omitted by 2017 c. 16 Sch. 5 para. 20
- art. 14(ba) inserted by 2012 c. 7 s. 218(4)
- art. 14(ba) omitted by S.I. 2022/1216 reg. 3(b)
- art. 15(5A) inserted by S.I. 2023/1286 Sch. 3 para. 74
- art. 15A15B inserted by 2012 c. 7 s. 218(5)
- art. 15A omitted by S.I. 2018/893 reg. 41(4) (This amendment comes into force on the date that 2017 c. 16, s. 39(1) comes into force. That provision is brought into force on 2.12.2019 by S.I. 2019/1436, reg. 2(b))
- art. 15B omitted by S.I. 2018/893 reg. 41(5) (This amendment comes into force on the date that 2017 c. 16, s. 39(1) comes into force. That provision is brought into force on 2.12.2019 by S.I. 2019/1436, reg. 2(b))
- art. 17(3A) inserted by 2012 c. 7 s. 218(7)

- art. 17(3A) omitted by [S.I. 2018/893 reg. 41\(7\)](#) (This amendment comes into force on the date that 2017 c. 16, s. 39(1) comes into force. That provision is brought into force on 2.12.2019 by S.I. 2019/1436, reg. 2(b))
- art. 18(1A) inserted by [2012 c. 7 s. 218\(8\)](#)
- art. 18(1A) omitted by [S.I. 2018/893 reg. 41\(8\)\(a\)](#) (This amendment comes into force on the date that 2017 c. 16, s. 39(1) comes into force. That provision is brought into force on 2.12.2019 by S.I. 2019/1436, reg. 2(b))
- art. 19(2A)-(2D) inserted by [S.I. 2007/3101 reg. 274](#)
- art. 19(2A)-(2D) omitted by [S.I. 2019/593 Sch. 8 para. 11](#)
- art. 19(2A)(b) words inserted by [2012 c. 7 s. 215\(10\)](#)
- art. 19(2A)(b) words omitted by [2017 c. 16 Sch. 5 para. 21](#)
- art. 21A inserted by [S.I. 2023/1286 Sch. 3 para. 75](#)
- art. 22(1)(a)(vi)(vii) inserted by [S.I. 2009/1182 Sch. 2 para. 5](#) (This effect comes into force on the coming into force of s. 44(1) of the Safeguarding Vulnerable Groups Act 2006 (c. 47). S. 44(1) was repealed without ever being in force on 10.9.2012 by 2012 c. 9, s. 75(6), Sch. 10 Pt. 5; S.I. 2012/2234, art. 2)
- art. 26(6A) inserted by [2015 c. 28 Sch. para. 6\(3\)](#)
- art. 37(1)(aa) inserted by [S.I. 2007/3101 reg. 275](#)
- art. 37(1)(aa) omitted by [S.I. 2019/593 Sch. 8 para. 12](#)
- art. 37(1)(aa) words inserted by [2012 c. 7 s. 215\(5\)\(b\)](#)
- art. 37(1)(aa) words omitted by [2017 c. 16 Sch. 5 para. 23\(2\)](#)
- art. 37(1)(ab) inserted by [S.I. 2014/1887 Sch. 1 para. 16\(a\)](#)
- art. 37(1A)(1B) inserted by [S.I. 2014/1887 Sch. 1 para. 16\(b\)](#)
- art. 37(1B) omitted by [2017 c. 16 Sch. 5 para. 23\(3\)](#)
- art. 37(2A) inserted by [S.I. 2014/1887 Sch. 1 para. 16\(c\)](#)
- art. 37(5A) inserted by [S.I. 2009/1182 Sch. 2 para. 9\(b\)](#)
- art. 37(5A)(a) words inserted by [2012 c. 7 s. 216\(2\)](#)
- art. 37(5A)(a) words omitted by [2017 c. 16 Sch. 5 para. 23\(4\)](#)
- art. 37(8A) inserted by [2012 c. 7 s. 216\(4\)](#)
- art. 37(8A) omitted by [2017 c. 16 Sch. 5 para. 23\(6\)](#)
- art. 38(1A) inserted by [S.I. 2007/3101 reg. 276\(b\)](#)
- art. 38(1A) omitted by [S.I. 2019/593 Sch. 8 para. 13\(b\)](#)
- art. 38(1A)(c)-(e) inserted by [S.I. 2016/1030 reg. 149\(2\)](#)
- art. 38(1B) inserted (temp.) by [2020 c. 7 Sch. 1 para. 2\(4\)](#)
- art. 38(1ZA) inserted by [2012 c. 7 s. 216\(5\)](#)
- art. 38(1ZA) omitted by [2017 c. 16 Sch. 5 para. 24\(2\)](#)
- art. 38(5) inserted by [2012 c. 7 s. 216\(7\)](#)
- art. 38(5) omitted by [2017 c. 16 Sch. 5 para. 24\(4\)](#)
- art. 39(1A) inserted by [2012 c. 7 s. 215\(12\)](#)
- art. 39(1A) omitted by [2017 c. 16 Sch. 5 para. 25](#)
- art. 40(3) coming into force by [S.I. 2002/254 art. 1\(3\)](#) (See transitional provisions in S.I. 2003/1700)
- art. 40(3) coming into force by [S.I. 2002/254 art. 1\(3\)](#)
- art. 42(2A) inserted by [S.I. 2009/1182 Sch. 2 para. 12\(a\)](#)
- art. 42(3)(3A) substituted for art. 42(3) by [S.I. 2009/1182 Sch. 2 para. 12\(b\)](#)
- art. 44A inserted by [2012 c. 7 s. 219\(1\)](#)
- art. 45(3A) inserted by [2012 c. 7 s. 218\(11\)](#)
- art. 49 inserted by [S.I. 2016/1030 reg. 150](#)
- art. 49 omitted by [S.I. 2019/593 Sch. 8 para. 14](#)