

SCHEDULE

THE HEALTH PROFESSIONS COUNCIL (PRACTICE COMMITTEES AND MISCELLANEOUS AMENDMENTS) RULES 2009

The Health Professions Council makes the following Rules in exercise of the powers conferred by articles 7(1) and (2), 9(2)(c), 26(3), 32 and 37(4) of, and paragraph 18(1) and (2) of Schedule 1 to, the Health Professions Order 2001, having consulted in accordance with articles 7(3) and 41(3) of that Order.

PART 1

Introductory

Citation and commencement

1. These Rules may be cited as the Health Professions Council (Practice Committees and Miscellaneous Amendments) Rules 2009 and—

- (a) apart from rule 6(h), come into force on 1st July 2009;
- (b) rule 6(h) comes into force on the coming into force of section 44(1) of the Safeguarding Vulnerable Groups Act 2006⁽¹⁾ (registers: power to apply for vetting information).

Interpretation

2. In these Rules—

“final outcome” in relation to any proceedings where there are rights of appeal, means the outcome of the proceedings—

- (a) once the period for bringing an appeal has expired without an appeal being brought; or
- (b) if an appeal is brought in accordance with those rights, once those rights have been exhausted;

“licensing body” means—

- (a) any body, other than the Council, anywhere in the world that licenses or regulates any profession;
- (b) the Council for the Professions Supplementary to Medicine, prior to its abolition by virtue of the Order;

“lay member” means a member who—

- (a) is not and never has been—
 - (i) a registrant,
 - (ii) registered under the 1960 Act, or
 - (iii) registered in the AODP register, the AEP register or the BPS register; and
- (b) does not hold a qualification that would entitle them to apply for registration under the Order;

“member”, unless the context otherwise requires, means a member of a Practice Committee and includes the chair, a deputy chair or a panel chair;

“the Order” means the Health Professions Order 2001;

(1) 2006 c.47.

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“spent conviction” means—

- (a) in relation to a conviction in a court in Great Britain, a conviction that is a spent conviction for the purposes of the Rehabilitation of Offenders Act 1974⁽²⁾; or
- (b) in relation to a conviction by a court in Northern Ireland, a conviction that is a spent conviction for the purposes of the Rehabilitation of Offenders (Northern Ireland) Order 1978⁽³⁾.

PART 2

Practice Committees

The Practice Committees

3.—(1) Each Practice Committee shall consist of not more than 350 persons, appointed by the Council, none of whom is a member of the Council.

(2) Members of a Practice Committee may only participate in the proceedings of the committee that they are invited to participate in by the Registrar or by a person authorised by the Registrar to invite them.

(3) The panel of members invited to participate in any proceedings of a Practice Committee in accordance with paragraph (2) may, at those proceedings, perform any function of that Practice Committee that it is reasonable for them to perform.

(4) The Council shall determine the duration of the term of office of members of the Practice Committees on their appointment.

(5) No person may be a member of one or more Practice Committees for more than an aggregate of 8 years during any period of 20 years but, for the purpose of computing that aggregate, any service as a member of a Practice Committee prior to 1st July 2007 is to be discounted.

(6) The quorum for a Practice Committee (that is, for a panel of members invited in accordance with paragraph (2)) is 3, of whom at least one must be—

- (a) a registrant from the same part of the register as any registrant who is the subject of the proceedings;
- (b) a lay member; and
- (c) a panel chair (who may also count as the registrant or lay member mentioned in subparagraphs (a) and (b)).

Chairing of the Practice Committees

4.—(1) The Council shall appoint, from among the members of each of the Practice Committees, persons to chair proceedings of the committee of which they are a member (“panel chairs”).

(2) Of those persons, the Council shall designate one panel chair of each Practice Committee to act as the chair of that committee for a period determined by the Council on designation.

(3) If the Registrar or the person duly authorised on the Registrar’s behalf (“the inviter”) does not invite the chair to participate in particular proceedings of the Practice Committee—

- (a) the inviter must invite another panel chair to those proceedings; and
- (b) subject to paragraph (4), that panel chair shall chair the proceedings in place of the chair of the committee.

(2) 1974 c. 53.

(3) S.I. 1978/1908 (N.I. 27).

(4) If at any proceedings of a Practice Committee, the panel chair invited to chair the proceedings is absent, the members of the committee at that meeting may nominate one of their number from amongst the members who are present to chair the proceedings.

(5) A person serving as a chair or panel chair of a Practice Committee shall cease to be a chair or panel chair—

- (a) if the member ceases to be a member of the Practice Committee in question;
- (b) if the member resigns as a chair or panel chair (or both), which they may do at any time by a notice in writing to the Council; or
- (c) if the Council votes to terminate the member’s appointment as a chair or panel chair (or both).

Validity of panel proceedings

5.—(1) The validity of any Practice Committee proceedings is not affected by—

- (a) a member whom the Council must remove from the committee under rule 7(1)(b) to (f) participating in the proceedings;
- (b) a member whom the Council has removed under rule 7(1) having participated in the proceedings; or
- (c) a member who has been suspended by the Council under rule 8(1) or (2) having participated in the proceedings.

(2) Notwithstanding paragraph (1)(a), a member whom the Council must remove from a committee under rule 7(1)(b) to (f) is not entitled to participate in proceedings of the committee, pending the member’s removal from the committee by the Council.

PART 3

Disqualification, termination and suspension of members

Disqualification from appointment

6. A person is disqualified from appointment as a member if that person—

- (a) has at any time been convicted of an offence involving dishonesty or deception in the United Kingdom and the conviction is not a spent conviction;
- (b) has at any time been convicted of an offence in the United Kingdom, and—
 - (i) the final outcome of the proceedings was a sentence of imprisonment or detention, and
 - (ii) the conviction is not a spent conviction;
- (c) has at any time been removed—
 - (i) from the office of charity trustee or trustee for a charity by an order made by the Charity Commissioners, the Charity Commission, the Charity Commission for Northern Ireland or the High Court on the grounds of any misconduct or mismanagement in the administration of the charity—
 - (aa) for which the person was responsible or to which the person was privy, or
 - (bb) which the person by their conduct contributed to or facilitated, or
 - (ii) under—

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- (aa) section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990(4) (powers of Court of Session to deal with management of charities),
or
- (bb) section 34(5)(e) of the Charities and Trustee Investment (Scotland) Act 2005(5) (powers of the Court of Session),
from being concerned with the management or control of any body;
- (d) has at any time been removed from office as the chair, member, convenor or director of any public body on the grounds, in terms, that it was not in the interests of, or conducive to the good management of, that body that the person should continue to hold that office;
- (e) has at any time been adjudged bankrupt or sequestration of the person's estate has been awarded, and—
 - (i) the person has not been discharged, or
 - (ii) the person is the subject of a bankruptcy restrictions order or an interim bankruptcy restrictions order under Schedule 4A to the Insolvency Act 1986(6) or Schedule 2A of the Insolvency (Northern Ireland) Order 1989(7) (which relate to bankruptcy restriction orders and undertakings);
- (f) has at any time made a composition or arrangement with, or granted a trust deed for, the person's creditors and the person has not been discharged in respect of it;
- (g) is subject to—
 - (i) a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986(8),
 - (ii) a disqualification order under Part 2 of the Companies (Northern Ireland) Order 1989(9) (company directors disqualification),
 - (iii) a disqualification order or disqualification undertaking under the Company Directors Disqualification (Northern Ireland) Order 2002(10), or
 - (iv) an order made under section 429(2) of the Insolvency Act 1986(11) (disabilities on revocation of a county court administration order);
- (h) has been included by—
 - (i) the Independent Barring Board in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006(12) or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007(13)), or
 - (ii) the Scottish Ministers in the children's list or the adults' list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007(14));
- (i) has at any time been subject to any investigation or proceedings concerning the person's fitness to practise by any licensing body, the final outcome of which was—

(4) 1990 c.40; section 7 was repealed by the Charities and Trustee Investment (Scotland) Act 2005 (asp 10), Schedule 4, paragraph 7(b).

(5) 2005 asp 10.

(6) 1986 c.45; Schedule 4A was inserted by section 257(2) of, and Schedule 20 to, the Enterprise Act 2002 (c.40).

(7) S.I. 1989/2405 (N.I. 19); Schedule 2A was inserted by S.I. 2005/1455 (N.I. 10).

(8) 1986 c.46.

(9) S.I. 1989/2404 (N.I. 18).

(10) S.I. 2002/3150 (N.I. 4); relevant amendments were made by S.I. 2005/1454 (N.I. 9).

(11) Section 429(2) was amended by the Enterprise Act 2002 (c.40), Schedule 23, paragraph 15.

(12) 2006 c.47.

(13) S.I. 2007/1351 (N.I. 11).

(14) 2007 asp 14.

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- (i) the person's erasure from a register held by the licensing body or a decision that had the effect of preventing the person from practising the profession licensed or regulated by the licensing body,
 - (ii) the person's suspension from a register held by the licensing body, and that suspension has not been terminated, or
 - (iii) a decision that had the effect of only allowing the person to practise that profession subject to conditions, and those conditions have not been lifted;
- (j) has at any time been subject to any investigation or proceedings concerning the person's fitness to practise by the Council, in the course of which or where the final outcome was that—
- (i) the person was removed from or struck off the register (for a reason connected to the person's fitness to practise),
 - (ii) the person's registration in the register was suspended (including by an interim suspension order) and that suspension has not been terminated,
 - (iii) the person's registration in the register was made conditional upon their compliance with any requirement (including an interim conditions of practice order) and that requirement has not been lifted, or
 - (iv) the person's registration in the register was annotated by virtue of a caution order and that order is still in force;
- (k) has at any time been subject to any investigation or proceedings relating to an allegation that the person's entry in the register was fraudulently procured, the final outcome of which was the removal of the person's entry in the register;
- (l) is or has at any time been subject to any investigation or proceedings concerning the person's fitness to practise by—
- (i) any licensing body, or
 - (ii) the Council,
- and the Council is satisfied that the person's membership of the committee would be liable to undermine public confidence in the regulation of registrants; or
- (m) has at any time been convicted of an offence elsewhere than in the United Kingdom and the Council is satisfied that the person's membership of the committee would be liable to undermine public confidence in the regulation of registrants.

Termination of committee membership

- 7.—(1) A member shall be removed from office by the Council, if—
- (a) the member resigns, which a member may do at any time by a notice in writing to the Council;
 - (b) in the case of a member who is—
 - (i) a registrant, that member's registration lapses, or
 - (ii) a lay member, that member no longer satisfies the criteria for being a lay member (which are in the definition of "lay member" in rule 2);
 - (c) the member becomes a person of the type mentioned in rule 6(a), (b) or (e) to (h), whether or not they thereafter cease to be such a person;
 - (d) the member becomes a person of the type mentioned in rule 6(c) or (d);

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- (e) in the case of a registrant, the member becomes the subject of any investigation or proceedings concerning the member's fitness to practise by the Council, in the course of which or as a result of which—
 - (i) the member is struck off the register,
 - (ii) the member's registration in the register is suspended,
 - (iii) the member's registration in the register is made conditional upon the member's compliance with any requirement, or
 - (iv) the person's registration in the register is annotated by virtue of a caution order, and the proceedings relating to that particular sanction have reached their final outcome;
 - (f) in the case of a registrant, the member becomes subject to any investigation or proceedings relating to an allegation that the person's entry in the register was fraudulently procured or incorrectly made, the final outcome of which is the removal of the person's entry in the register;
 - (g) the Council is satisfied that the member's level of attendance at meetings of the committee falls below a minimum level of attendance acceptable to the Council, having regard to—
 - (i) any recommended minimum levels of attendance that the Council has set in its standing orders, and
 - (ii) whether or not there were reasonable causes for the member's absences;
 - (h) the Council is satisfied that the member has failed, without reasonable cause, to undertake satisfactorily the requirements with regard to education and training for members that apply to that member and which the Council has included in its standing orders;
 - (i) the Council is satisfied that the member is no longer able to perform their duties as a member of the committee because of adverse physical or mental health;
 - (j) the Council is satisfied that the member's continued membership of the committee would be liable to undermine public confidence in the regulation of registrants.
- (2) A member who becomes, or may become, a person to whom paragraph (1)(b) to (f) applies must notify the Council in writing of that fact as soon as the person becomes aware of it.
- (3) Any member or employee of the Council may notify the Council if they are of the view that the Council may need to exercise its functions under paragraph (1).

Suspension of committee membership

8.—(1) The Council may suspend a member from office by a notice in writing served on the member—

- (a) if the Council has reasonable grounds for suspecting that the member has become a person to whom rule 7(1)(b)(ii) to (d) applies, for the purposes of determining whether or not the member has become such a person;
- (b) while the Council is considering whether or not it is satisfied as to the matters set out in rule 7(1)(g) to (j);
- (c) if the member is subject to any investigation or proceedings concerning the member's fitness to practise by—
 - (i) any licensing body, or
 - (ii) the Council,

and the Council is satisfied that it would not be appropriate for the member to continue to participate in proceedings of the committee while the investigation or proceedings concerning the member's fitness to practise is or are ongoing;

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- (d) if the member is the subject of any investigation or proceedings concerning whether the member's entry in the register was fraudulently procured or incorrectly made and the Council is satisfied that it would not be appropriate for the member to continue to participate in proceedings of the committee while the investigation or proceedings concerning the member's entry in the register is or are ongoing;
 - (e) if the member is subject to any investigation or proceedings in the United Kingdom relating to a criminal offence, or in any other part of the world relating to an offence which, if committed in any part of the United Kingdom, would constitute a criminal offence, and—
 - (i) either—
 - (aa) the investigation or proceedings relate to an offence involving dishonesty or deception, or
 - (bb) the final outcome of the investigation or proceedings may be that the person is sentenced to a term of imprisonment or detention, and
 - (ii) the Council is satisfied that it would not be appropriate for the member to continue to participate in proceedings of the committee while the investigation or proceedings is or are ongoing.
- (2) The Council shall suspend a member from office by notice in writing served on the member if the member is the subject of an order under article 31 of the Order (interim orders by a Practice Committee).
- (3) The notice in writing under paragraph (1) or (2) shall set out the reasons for the suspension and the duration of the period of suspension, which shall (in the first instance) not be for more than 6 months.
- (4) The Council—
- (a) may at any time review a suspension of a member by it; and
 - (b) shall review any suspension of a member by it after 3 months from the start of the period of suspension, if requested to do so by the suspended member.
- (5) Following a review, the Council may—
- (a) terminate the suspension; or
 - (b) if that review is within 3 months of the end of a period of suspension, extend the suspension for a further period of up to 6 months from the date on which the suspension would otherwise come to an end.
- (6) The Council shall notify the suspended member in writing of the outcome of any review and that notice in writing shall include the reasons for any decision taken.

PART 4

Miscellaneous amendments and revocations

Amendments to the Health Professions Council (Registration and Fees) Rules 2003

- 9.** In the Health Professions Council (Registration and Fees) Rules 2003(15)—
- (a) in rule 10 (registration period)—
 - (i) after paragraph (2) insert the following paragraph—

(15) Scheduled to [S.I. 2003/1572](#).

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“(2A) The first registration period of a practitioner psychologist who, on 1st July 2009, is transferred to the register by virtue of article 5(3) of the Health Care and Associated Professions (Miscellaneous Amendments and Practitioner Psychologists) Order 2009(16) (transitory and transitional provisions relating to the introduction of statutory regulation of practitioner psychologists), will end on 31st October 2009.”, and

(ii) in paragraph (3), after “paragraph (2)” insert “or (2A)”;

(b) in rule 14(17) (registration fee)—

(i) in paragraph (1), after “paragraph (2)” insert “and (3)”, and

(ii) after paragraph (2) insert—

“(3) A person—

(a) who, on 1st July 2009, is transferred to the register by virtue of article 5(3) of the Health Care and Associated Professions (Miscellaneous Amendments and Practitioner Psychologists) Order 2009 (transitory and transitional provisions relating to the introduction of statutory regulation of practitioner psychologists); and

(b) whose first registration period is determined in accordance with rule 10(2A),

shall not be liable to pay a registration fee in respect of that first registration period.”;

(c) for rule 15(18) (renewal fee) substitute—

“Renewal fee

15. The fee to be charged for renewal of registration is—

(a) in the case of a practitioner psychologist for the registration period from 1st November 2009 to 31st May 2011, £120; and

(b) in all other cases, £152.”; and

(d) in Schedule 5 (registration period)—

(i) after the entry in the table in respect of physiotherapists, in column 1 insert “Practitioner psychologists”, and

(ii) opposite that entry, in column 2 insert “31st May in an odd numbered year”.

Amendments to the Health Professions Council (Investigating Committee) (Procedure) Rules 2003

10.—(1) In the Health Professions Council (Investigating Committee) (Procedure) Rules 2003(19)—

(a) in rule 2(20) (interpretation), for the definition of “Chairman” substitute—

““Chair” means the panel chair of any panel of members performing the functions of the Committee;”;

(b) in rule 7 (preliminary meetings)—

(i) In paragraph (1)—

(16) [S.I. 2009/1182](#).

(17) Amended by [S.I. 2007/1280](#) and [2009/272](#).

(18) Substituted by [S.I. 2007/1280](#).

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

(20) Amended by [S.I. 2005/1625](#).

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- (aa) for “Chairman” substitute “Chair”,
- (bb) for “it or he considers appropriate” substitute “the Committee or the Chair considers appropriate”, and
- (cc) for “its or his opinion” substitute “the opinion of the Committee or the Chair”, and
- (ii) in paragraph (2), for “Chairman” substitute “Chair”;
- (c) in rule 8(21) (conduct of hearing), in paragraph (4)—
 - (i) for “hearing the Chairman” substitute “hearing the Chair”,
 - (ii) in sub-paragraph (a), for “Chairman” substitute “Chair”,
 - (iii) in sub-paragraph (c), for “Chairman” substitute “Chair”, and
 - (iv) in sub-paragraph (e), for “Chairman” substitute “Chair”; and
- (d) in rule 10 (extension of time limits), for “Chairman where he” substitute “Chair where the Chair”.

Amendments to the Health Professions Council (Conduct and Competence Committee) (Procedure) Rules 2003

11.—(1) In the Health Professions Council (Conduct and Competence Committee) (Procedure) Rules 2003(22)—

- (a) in rule 2(23) (interpretation), for the definition of “Chairman” substitute—

““Chair” means the panel chair of any panel of members performing the functions of the Committee;”;
- (b) in rule 7 (preliminary meetings)—
 - (i) in paragraph (1)—
 - (aa) for “Chairman” substitute “Chair”,
 - (bb) for “it or he considers appropriate” substitute “the Committee or the Chair considers appropriate”, and
 - (cc) for “its or his opinion” substitute “the opinion of the Committee or the Chair”, and
 - (ii) in paragraph (2), for “Chairman” substitute “Chair”;
- (c) in rule 10(24) (conduct of hearing), in paragraph (4)—
 - (i) for “hearing the Chairman” substitute “hearing the Chair”,
 - (ii) in sub-paragraph (a), for “Chairman” substitute “Chair”,
 - (iii) in sub-paragraph (c), for “Chairman” substitute “Chair”, and
 - (iv) in sub-paragraph (e), for “Chairman” substitute “Chair”;
- (d) in rule 13(25) (review of orders and applications for restoration to the register)—
 - (i) in paragraph (8)—
 - (aa) for “Chairman” substitute “Chair”,

(21) Amended by S.I. 2005/1625.

(22) Scheduled to S.I. 2003/1575.

(23) Amended by S.I. 2005/1625.

(24) Amended by S.I. 2005/1625.

(25) Amended by S.I. 2005/1625.

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- (bb) for “it or he considers appropriate” substitute “the Committee or the Chair considers appropriate”, and
- (cc) for “its or his opinion” substitute “the opinion of the Committee or the Chair”, and
- (ii) in paragraph (9), for “Chairman” substitute “Chair”; and
- (e) in rule 14 (extension of time limits), for “Chairman where he” substitute “Chair where the Chair”.

Amendments to the Health Professions Council (Health Committee) Procedure Rules 2003

12. In the Health Professions Council (Health Committee) Procedure Rules 2003(26)—

- (a) in rule 2 (interpretation), for the definition of “Chairman” substitute—
 - ““Chair” means the panel chair of any panel of members performing the functions of the Committee;”;
- (b) in rule 7 (preliminary meetings)—
 - (i) in paragraph (1)—
 - (aa) for “Chairman” substitute “Chair”,
 - (bb) for “it or he considers appropriate” substitute “the Committee or the Chair considers appropriate”, and
 - (cc) for “its or his opinion” substitute “the opinion of the Committee or the Chair”, and
 - (ii) in paragraph (2), for “Chairman” substitute “Chair”;
- (c) in rule 10 (conduct of hearing)—
 - (i) for “hearing the Chairman” substitute “hearing the Chair”,
 - (ii) in sub-paragraph (a), for “Chairman” substitute “Chair”,
 - (iii) in sub-paragraph (c), for “Chairman” substitute “Chair”, and
 - (iv) in sub-paragraph (e), for “Chairman” substitute “Chair”;
- (d) in rule 13 (review of orders and applications for restoration to the register)—
 - (i) in paragraph (8)—
 - (aa) for “Chairman” substitute “Chair”,
 - (bb) for “it or he considers appropriate” substitute “the Committee or the Chair considers appropriate”, and
 - (cc) for “its or his opinion” substitute “the opinion of the Committee or the Chair”, and
 - (ii) in paragraph (9) for “Chairman” substitute “Chair”; and
- (e) in rule 14 (extension of time limits), for “Chairman where he” substitute “Chair where the Chair”.

Amendments to the Health Professions Council (Registration Appeals) Rules 2003

13. In the Health Professions Council (Registration Appeals) Rules 2003(27)—

- (a) in rule 2 (interpretation), for the definition of “Chairman” substitute—

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

(27) Scheduled to [S.I. 2003/1579](#).

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““Chair” means the Chair of an Appeal Panel;”;

(b) in rule 9 (consideration by Appeal Panel)—

(i) for paragraph (3) substitute—

“(3) An Appeal Panel shall comprise not fewer than three members appointed by the Council 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—

(i) is not and never has been a registrant, or registered under the 1960 Act or in the AODP register, the AEP register or the BPS register; and

(ii) does not hold a qualification that would entitle them to apply for registration under the Order;

(c) where the health of the appellant is in issue, a registered medical practitioner.”;

(ii) in paragraph (4), for “as Chairman” substitute “as Chair (and may also count as the registrant or lay person mentioned in paragraphs (3)(b)(i) and (ii))”,

(iii) in paragraph (6), for “Chairman” substitute “Chair”, and

(iv) after paragraph (6), insert the following paragraphs—

“(7) The members of an Appeal Panel, other than the Chair, shall be appointed from among the members of the Practice Committees.

(8) A person—

(a) is not eligible to be appointed to, or sit as a member of, an Appeal Panel if that person is disqualified or suspended from membership of the Council or a Practice Committee; and

(b) shall cease to be a member of an Appeal Panel if—

(i) the member resigns, which the member may do at any time by notice in writing to the Council,

(ii) the Council votes (by a majority at a quorate meeting) to terminate the member’s appointment, or

(iii) the member ceases to be a member of the Council or a Practice Committee.”.