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STATUTORY INSTRUMENTS

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**2003 No. 1700**

**The Health Professions Order 2001  
(Transitional Provisions) Order of Council 2003**

**Judgments which immediately before 9th July 2003 stand postponed**

9.—(1) Where immediately before 9th July 2003 the judgment of a disciplinary committee, or of the Council, stands postponed pursuant to rule 10(4), or further postponed pursuant to rule 12(1)(d), of the Procedure Rules, the Council shall no later than 9th July 2004 or six weeks before the date fixed for resumption of the proceedings, whichever is sooner, send to the respondent a notice which shall—

- (a) specify the day, time and place at which the proceedings are to be resumed and invite him to appear at the hearing;
- (b) unless the Chairman otherwise directs, invite the respondent to furnish the Registrar with names and addresses of persons to whom reference may be made confidentially or otherwise concerning his character and conduct; and
- (c) invite the respondent to send to the Council, not less than three weeks before the date fixed for the resumption of proceedings, a copy of any statement or statutory declaration, whether made by the respondent or not, relating to his conduct or other relevant matters since the hearing of his case or setting out any material facts which have arisen since that hearing.

(2) A copy of—

- (a) the notice sent by the Council in accordance with paragraph (1); and
- (b) any statement or statutory declaration sent to the Council by the respondent as a result of the invitation pursuant to paragraph (1)(c),

shall be sent to the person making the allegation that led to the case if any, if he is a party to the proceedings, and he may in turn, if he so desires, send to the Council a statement or statutory declaration, whether made by himself or not, concerning any matter raised by the respondent.

(3) At the meeting at which the proceedings are resumed the Chairman shall first invite the Solicitor to recall, for the information of the Council, the position in which the case stands and the Council may then receive further oral or documentary evidence in relation to the case, or to the conduct of the respondent since the hearing, and shall hear any party to the proceedings who desires to be heard.

(4) The Council shall then consider the case and—

- (a) may not further postpone judgment pursuant to rule 12(1)(d); and
- (b) if but for paragraph (a) the Council would have further postponed judgment, it shall act in accordance with article 29(4) or (5) of the Order, and—
  - (i) thereafter Part V and article 38 of the Order will apply to the decision or order of the Council as if it were a decision or order of a Committee under article 29(4) or (5) of the Order,

- (ii) for these purposes, Part V and article 38 of the Order shall apply as if references to a Practice Committee (however made), except in article 38(3)(d) of the Order, were references to the Council, and
- (iii) in article 38(3)(d) the reference to the “Practice Committee concerned” shall be read as if it were to “such Practice Committee as the court or sheriff considers appropriate”.

(5) Subject to the provisions of the Order, the validity of any resumed proceedings shall not be called into question by reason only that members of the Committee who were present at any former meeting are not present at the resumed meeting held by the Council.

(6) In this article—

“Chairman” means the person selected by the Council to preside at the resumed proceedings;  
“Solicitor” means any solicitor appointed by the Council to present the case against the respondent;

“Party” means—

- (a) the respondent; or
- (b) the person making the allegation provided that he shall not be deemed to be a party if he takes part in the proceedings only as a witness.