

2009 No. 1182

HEALTH CARE AND ASSOCIATED PROFESSIONS

The Health Care and  
Associated Professions  
(Miscellaneous Amendments  
and Practitioner  
Psychologists) Order 2009

Made - - - - -

13th May 2009

*Coming into force in accordance with article 1(2) to (9)*



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**CONTENTS**

1. Citation, commencement and extent
2. Interpretation
3. Amendments to the principal measures
4. Amendments to and revocations of other legislation
5. Transitory and transitional provisions relating to the introduction of statutory registration of practitioner psychologists
6. Saving provisions relating to procedures for making or approving legislation
7. Transitional and saving measures relating to the General Dental Council
8. Cancellation of elections to, and transitional measures relating to, the Health Professions Council
9. Transitional, transitory or saving provisions orders
10. Privy Council procedures etc.

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- SCHEDULE 1 — Amendments to the Dentists Act 1984
- SCHEDULE 2 — Amendments to the Health Professions Order 2001
- SCHEDULE 3 — Amendments to the Pharmacists and Pharmacy Technicians Order 2007
- SCHEDULE 4 — Amendments to and revocations of subordinate legislation
- PART 1 — Amendments relating to the introduction of statutory regulation of practitioner psychologists
- PART 2 — Amendments relating to barring entries
- PART 3 — Amendments relating to the introduction of statutory regulation of pharmacy technicians
- PART 4 — Revocations relating to constitutional changes to the General Dental Council
- PART 5 — Revocations relating to constitutional changes to the Health Professions Council
- PART 6 — Miscellaneous updating and consequential amendments

- SCHEDULE 5 — Amendments to Acts of Parliament, Acts of the Scottish Parliament and Northern Ireland legislation
- PART 1 — Amendments to Acts of Parliament
- PART 2 — Amendments to Acts of the Scottish Parliament
- PART 3 — Amendment of Northern Ireland legislation

At the Court at Buckingham Palace, the 13th day of May 2009

Present,

The Queen's Most Excellent Majesty in Council

This Order in Council is made in exercise of the powers conferred by sections 60 and 62 of, and Schedule 3 to, the Health Act 1999<sup>(a)</sup>.

The Secretary of State and the Scottish Ministers published a draft Order and invited representations as required by paragraph 9(1) and (3) of Schedule 3 to that Act.

The period of three months mentioned in paragraph 9(4) of that Schedule expired before a draft of this Order in Council was laid before Parliament and the Scottish Parliament.

A draft of this Order in Council has been approved by resolution of each House of Parliament and the Scottish Parliament, in accordance with section 62(10) of that Act.

Accordingly, Her Majesty is pleased, by and with the advice of Her Privy Council, to make the following Order in Council:

**Citation, commencement and extent**

1.—(1) This Order may be cited as the Health Care and Associated Professions (Miscellaneous Amendments and Practitioner Psychologists) Order 2009.

(2) The following provisions come into force on the day after the day on which this Order is made—

- (a) this article and articles 2 and 5 to 10;
- (b) in Schedule 1, paragraphs 1(a), 3 to 6, 11 and 12, and article 3(1) in so far as it relates to those paragraphs;
- (c) in Schedule 2, paragraphs 1(a), 6(c), 12 to 14, 16(b) and 17, and article 3(2) in so far as it relates to those paragraphs;
- (d) in Schedule 3, paragraphs 2, 3(b) and (c), 5, 6, 11 to 14, 17(a), 19(a) and 26(a), and article 3(3) in so far as it relates to those paragraphs;
- (e) in Schedule 4, Part 6, and article 4(1) in so far as it relates to that Part; and
- (f) in Schedule 5, paragraphs 1 and 2, and article 4(2) in so far as it relates to those paragraphs.

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(a) 1999 c.8. Section 60 has been amended by: the National Health Service Reform and Health Care Professions Act 2002 (c.17) ("the 2002 Act"), section 26(9); the Health and Social Care Act 2008 (c.14) ("the 2008 Act"), Schedule 8, paragraph 1, and Schedule 10, paragraph 10; and S.I. 2002/253 and 254. Section 62 has been amended by: the National Health Service (Consequential Provisions) Act 2006 (c.43), Schedule 1, paragraphs 194 and 197, and Schedule 4; and the 2008 Act, Schedule 8, paragraph 2, and Schedule 10, paragraph 11. Schedule 3 has been amended by: the 2002 Act, section 26(10); the Health and Social Care (Community Health and Standards) Act 2003 (c.43), Schedule 11, paragraph 67, and Schedule 14, Part 4; the Health Act 2006 (c.28), section 33 and Schedule 9; the 2008 Act, Schedule 8, paragraphs 3 to 10 (although paragraph 10 is not yet in force); and S.I. 2002/254.

(3) Except as provided for by paragraph (2), the provisions of this Order which confer, amend or substitute powers enabling rules or orders to be made come into force on the making of this Order, but for the purpose only of the exercise of those powers.

(4) Paragraphs (5) and (6) have effect subject to paragraph (3).

(5) The following provisions come into force on the coming into force of article 21 of the 2007 Order (the Register of Pharmacy Technicians)—

(a) in Schedule 3, paragraphs 1, 3(a), 4, 7 to 10, 15, 16, 17(b), 19(b) and (c), 20 to 23, 24(b), 25 and 26(b), and article 3(3) in so far as it relates to those paragraphs; and

(b) in Schedule 4, Part 3, and article 4(1) in so far as it relates to that Part.

(6) The following provisions come into force on the coming into force of section 44(1) of the Safeguarding Vulnerable Groups Act 2006(a) (registers: power to apply for vetting information)—

(a) in Schedule 1, paragraphs 7 to 9, and article 3(1) in so far as it relates to those paragraphs;

(b) in Schedule 2, paragraph 5, and article 3(2) in so far as it relates to that paragraph;

(c) in Schedule 3, paragraph 18, and article 3(3) in so far as it relates to that paragraph;

(d) in Schedule 4, Part 2, and article 4(1) in so far as it relates to that Part; and

(e) in Schedule 5, paragraph 9, and article 4(2) in so far as it relates to that paragraph.

(7) Paragraph 12 of Schedule 5, and article 4(2) in so far as it relates to that paragraph, come into force on the coming into force of section 30(2) of the Protection of Vulnerable Groups (Scotland) Act 2007(b) (notice of listing etc.).

(8) Paragraph 13 of Schedule 5, and article 4(2) in so far as it relates to that paragraph, come into force on the coming into force of Article 46(1) of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007(c) (registers: power to apply for vetting information).

(9) Except as provided for by paragraphs (2) to (8), this Order comes into force on such day as the Privy Council may by order appoint.

(10) Different days may be appointed by an order under paragraph (9) for different provisions or different purposes.

(11) Before making an order under paragraph (9), the Privy Council must consult the Scottish Ministers.

(12) Subject to paragraph (13), this Order extends to England and Wales, Scotland and Northern Ireland.

(13) The extent of any amendment or revocation of any enactment or instrument set out in the Schedules is the same as that of the enactment or instrument amended or revoked.

## Interpretation

2. In this Order—

“the 1984 Act” means the Dentists Act 1984(d);

“the 2001 Order” means the Health Professions Order 2001(e);

“the 2007 Order” means the Pharmacists and Pharmacy Technicians Order 2007(f);

“AEP” means the Association of Educational Psychologists, which held its inaugural meeting at the London School of Economics on 14th April 1962 and was founded on that date(g);

“AEP register” means the aggregate of the entries in the membership list maintained by the AEP that relate to—

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(a) 2006 c.47.

(b) 2007 asp 14.

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

(d) 1984 c.24.

(e) S.I. 2002/254.

(f) S.I. 2007/289.

(g) The Association of Educational Psychologists is at 4 The Riverside Centre, Frankland Lane, Durham, DH1 5TA.

- (a) full members of the AEP; or
  - (b) affiliate members of the AEP who have been full members of the AEP at any time during the two year period immediately prior to the appointed day for practitioner psychologists;
- “appointed day for practitioner psychologists” means the day on which paragraph 16(d) of Schedule 2 comes into force;
- “BPS” means the British Psychological Society, which was incorporated by Royal Charter on 26th February 1965(a);
- “BPS register” means the aggregate of the entries in the register maintained by the BPS that relate to holders of practising certificates who are or have been full members of one or more of the divisions of the BPS in respect of the following branches of psychology: clinical psychology; counselling psychology; educational psychology; forensic psychology; health psychology; occupational psychology; and sport and exercise psychology;
- “HPC” means the Health Professions Council established under article 3 of the 2001 Order;
- “HPC register” means the register maintained under article 5 of the 2001 Order; and
- “the principal measures” means the 1984 Act, the 2001 Order and the 2007 Order.

### **Amendments to the principal measures**

- 3.—(1) The amendments to the 1984 Act set out in Schedule 1 have effect.
- (2) The amendments to the 2001 Order set out in Schedule 2 have effect.
- (3) The amendments to the 2007 Order set out in Schedule 3 have effect.

### **Amendments to and revocations of other legislation**

- 4.—(1) The amendments to and revocations of subordinate legislation set out in Schedule 4 have effect.
- (2) The amendments to Acts of Parliament, Acts of the Scottish Parliament and Northern Ireland legislation set out in Schedule 5 have effect.
- (3) The references in articles 9(4)(a), 13(1)(b) and 39(2) of the 2001 Order to the coming into force of an order under article 6(1) of the Order in relation to a profession include a reference to the coming into force in relation to a profession of paragraph 8 of Schedule 4.

### **Transitory and transitional provisions relating to the introduction of statutory registration of practitioner psychologists**

- 5.—(1) The HPC and the BPS, and the HPC and the AEP, shall enter into arrangements (which may include financial arrangements) to facilitate the introduction of the new arrangements for the statutory regulation of practitioner psychologists arising out of this Order.
- (2) The arrangements entered into under paragraph (1) shall include arrangements to ensure that all the names in the BPS register and the AEP register which are to be entered in the HPC register with effect from the appointed day for practitioner psychologists are so entered.
- (3) Subject to paragraphs (5) and (6), if on the day before the appointed day for practitioner psychologists a person’s name is included in the BPS register or the AEP register (or both), the person shall be registered in the part of the HPC register which relates to practitioner psychologists with effect from the appointed day for practitioner psychologists.
- (4) If on the appointed day for practitioner psychologists there is an outstanding application for a person’s name to be entered in the BPS register or the AEP register (including an application for restoration to the register), the HPC—

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(a) The British Psychological Society is at St Andrews House, 48 Princess Road East, Leicester, LE1 7DR. The Society’s Royal Charter has been amended six times, and is available, in its amended form, on the Society’s website at [www.bps.org.uk](http://www.bps.org.uk).

- (a) may determine that the person's name is to be entered in the part of the HPC register which relates to practitioner psychologists; and
  - (b) shall dispose of the matter in such manner as it considers just.
- (5) If on the day before the appointed day for practitioner psychologists a person's name is included in the BPS register or the AEP register but—
- (a) the person's registration is suspended (whether temporarily or permanently); or
  - (b) the person is the subject of proceedings which could lead to the person's removal or suspension from the BPS register or the AEP register,
- paragraph (6) applies.

- (6) In the circumstances described in paragraph (5), the HPC—
- (a) may determine that the person's name is not to be entered in the part of the HPC register which relates to practitioner psychologists; and
  - (b) shall dispose of the matter (including any proceedings) in such manner as it considers just.

(7) Where a person is registered in the HPC register pursuant to paragraph (3) or (4), the person's home address shall not be published in the HPC register without the person's consent.

- (8) Subject to paragraph (9), the Privy Council may—
- (a) with the consent of the BPS, by order provide for the transfer from the BPS to the HPC of any property, rights or liabilities;
  - (b) with the consent of the AEP, by order provide for the transfer from the AEP to the HPC of any property, rights or liabilities,

and any order under this paragraph may include such supplementary, incidental or consequential provisions as the Privy Council considers necessary or expedient.

- (9) An order under paragraph (8) may not relate to land or any interest in, or right over, land.

### **Saving provisions relating to procedures for making or approving legislation**

- 6.—(1) The amendments made to—
- (a) section 51(a) (exercise of powers conferred on the Privy Council) of the 1984 Act by virtue of paragraph 11 of Schedule 1;
  - (b) article 42 (exercise of powers by the Privy Council) of the 2001 Order by virtue of paragraph 12 of Schedule 2; and
  - (c) articles 66 (rules) and 69 (Privy Council procedures etc.) of the 2007 Order by virtue of paragraphs 24 and 25 of Schedule 3,

altering the procedure for making or approving rules, regulations or orders do not affect the validity of any rules, regulations or orders made prior to the coming into force of the amendments.

- (2) Accordingly, such rules, regulations and orders—
- (a) shall continue to have effect notwithstanding the coming into force of those amendments; and
  - (b) may be amended or revoked by rules, regulations or orders made or approved using the altered procedure.

### **Transitional and saving measures relating to the General Dental Council**

7.—(1) The Privy Council may, by a direction under subsection (1) of section 60 of the Health Act 2006(b) (Commission to exercise Privy Council's appointment functions), require the

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(a) Section 51 has been amended by the National Health Service Reform and Health Care Professions Act 2002 (c.17), Schedule 9, Part 2, and by S.I. 2005/2011.  
 (b) 2006 c.28.

Appointments Commission to appoint the person who held office as President of the General Dental Council on the day before the relevant order comes into force as a member of the General Dental Council as constituted on the day the relevant order comes into force.

(2) The relevant order may include a provision enabling the Privy Council to appoint as the chair of the General Dental Council, for a specified period, the person who held office as President of that Council on the day before the relevant order comes into force.

(3) For the purposes of paragraphs (1) and (2), “relevant order” means the first order of the Privy Council under section 1(2A) of the 1984 Act(a) that includes provision required by paragraph 1B(1) of Schedule 1 to that Act.

(4) On and after the day on which this article comes into force, subsection (3) of section 3 of the 1984 Act(b) (power of medical authorities to hold examinations and grant licences in dentistry) shall apply as if the reference to universities or other bodies who choose appointed members of the General Medical Council were a reference to—

- (a) the universities or other bodies who were entitled to choose those members on 31st December 2008; and
- (b) such other universities or other bodies as the Privy Council designates by order for the purposes of this paragraph.

(5) Article 5 of the Health Care and Associated Professions (Miscellaneous Amendments) Order 2008(c) (saving provision relating to the definition of “medical authority” in section 3(3) of the Dentists Act 1984) is superseded by paragraph (4) and, accordingly, is omitted.

#### **Cancellation of elections to, and transitional measures relating to, the Health Professions Council**

**8.**—(1) Elections shall not be held in respect of the vacancies which, but for the amendments to the 2001 Order set out in paragraph 17(1)(c) of Schedule 2, would have arisen in respect of the registrant and alternate members of the HPC who were due to vacate office at the end of 8th July 2009.

(2) The Privy Council may, by a direction under subsection (1) of section 60 of the Health Act 2006(d) (Commission to exercise Privy Council’s appointment functions), require the Appointments Commission to appoint the person who held office as President of the HPC on the day before the first order under article 3(7A) of the 2001 Order comes into force as a member of the HPC as constituted on the day the first order under article 3(7A) of the 2001 Order comes into force.

(3) The first order under article 3(7A) of the 2001 Order may include a provision enabling the Privy Council to appoint as the chair of the HPC, for a specified period, the person who held office as President of the HPC on the day before the first order under article 3(7A) of the 2001 Order comes into force.

#### **Transitional, transitory or saving provisions orders**

**9.**—(1) In connection with the commencement of any provision of this Order, the Privy Council may by order make such transitional, transitory or saving provisions as it considers appropriate.

(2) The power to make an order under paragraph (1) may be exercised—

- (a) so as to make different provision—
  - (i) with respect to different cases or different classes of cases, or
  - (ii) in respect of the same case or class of case for different purposes;

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(a) Subsection (2A) of section 1 was inserted by S.I. 2001/3926 and substituted by S.I. 2005/2011.

(b) Section 3(3) was amended by S.I. 1987/2047.

(c) S.I. 2008/1774.

(d) 2006 c.28.

- (b) in relation to all cases to which the power extends or in relation to all those cases subject to specified exceptions; or
  - (c) so as to make any supplementary, incidental or consequential provisions which the Privy Council considers necessary or expedient.
- (3) Before making an order under paragraph (1)—
- (a) that includes measures relating to the regulation of—
    - (i) operating department practitioners,
    - (ii) practitioner psychologists,
    - (iii) pharmacy technicians, or
    - (iv) a profession complementary to dentistry, or a class of members of a profession complementary to dentistry, which immediately before the revocation of the Dental Auxiliaries Regulations 1986(a) did not constitute a class of dental auxiliaries regulated by those Regulations; or
  - (b) that relates to the commencement of the new section 30A of the Protection of Vulnerable Groups (Scotland) Act 2007(b),

the Privy Council must consult the Scottish Ministers.

**Privy Council procedures etc.**

**10.**—(1) The power of the Privy Council to make an order under article 1(9), 5(8), 7(4)(b) or 9(1) may be exercised by any two or more members of the Privy Council.

(2) The making of an order under article 1(9), 5(8), 7(4)(b) or 9(1) shall be sufficiently signified by an instrument signed by the Clerk of the Privy Council.

(3) The power to make an order under article 1(9), 7(4)(b) or 9(1) shall be exercisable by statutory instrument.

(4) For the purposes of section 1 of the Statutory Instruments Act 1946(c) (definition of “Statutory Instrument”), any power to which paragraph (3) applies is to be taken to be conferred by an Act of Parliament.

(5) Where an order of the Privy Council under this Order is signified by an instrument purporting to be signed by the Clerk of the Privy Council, that shall be evidence, and in Scotland sufficient evidence, of—

- (a) the fact that the order was duly made; and
- (b) the order’s terms.

*Judith Simpson*  
Clerk of the Privy Council

**SCHEDULE 1**

Article 3(1)

**Amendments to the Dentists Act 1984**

**Amendment of section 1**

**1.** In section 1(d) (constitution and general duties of the Council)—

- (a) after subsection (1) insert the following subsection—

(a) S.I. 1986/887.

(b) 2007 asp 14.

(c) 1946 c.36; section 1 has been amended by the Government of Wales Act 1998 (c.38), Schedule 12, paragraph 2.

(d) Section 1 has been amended by S.I. 2001/3926.

“(1A) When exercising their functions under this Act, the Council shall have proper regard for—

- (a) the interests of persons using or needing the services of registered dentists or registered dental care professionals in the United Kingdom; and
  - (b) any differing interests of different categories of registered dentists or registered dental care professionals.”; and
- (b) omit subsection (2B).

#### **Amendment of section 2**

**2.** In section 2(a) (committees of the Council)—

- (a) in subsection (6), for “order of the Privy Council” substitute “rules”;
- (b) after subsection (6) insert the following subsection—

“(6A) Rules made under subsection (6) may provide for the functions of a committee of the Council mentioned in this section to be exercised by one or more panels comprised of members of the committee and may make provision with regard to the constitution of the panels.”; and

- (c) omit subsections (7) and (8).

#### **Amendment of section 2A**

**3.** In section 2A(b) (the Council’s duty to co-operate), in subsection (2)—

- (a) in paragraph (d), for “the services provided by the professions regulated under this Act” substitute “the provision, supervision or management of national health services”; and
- (b) in paragraph (e), omit sub-paragraph (ii) and the “or” at the end of sub-paragraph (i).

#### **Substitution of section 2B**

**4.** For section 2B(c) (annual and other reports) substitute the following section—

##### **“Annual reports, statistical reports and strategic plans**

**2B.**—(1) The Council shall publish, by such date in each year as the Privy Council shall specify—

- (a) a report on the exercise of their functions which includes a description of the arrangements that the Council have put in place to ensure that they adhere to good practice in relation to equality and diversity (and for these purposes “equality” and “diversity” have the meanings given in section 8(2) of the Equality Act 2006(d));
- (b) a statistical report which indicates the efficiency and effectiveness of, and which includes a description of, the arrangements which the Council have put in place to protect members of the public from persons who are registered dentists or registered dental care professionals and whose fitness to practise is impaired, together with the Council’s observations on the report; and
- (c) a strategic plan for the Council in respect of such number of years as the Council shall determine.

(2) The Council shall submit copies of the reports and the plan published under subsection (1) to the Privy Council and the Privy Council shall lay copies of the reports and the plan before each House of Parliament and before the Scottish Parliament.”

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(a) Section 2 has been amended by S.I. 2001/3926 and 2005/2011.  
(b) Section 2A was inserted by S.I. 2005/2011.  
(c) Section 2B was inserted by S.I. 2005/2011.  
(d) 2006 c.3.

### **Amendment of section 2C**

5. In section 2C(a) (accounts), in subsection (4)(b), for “Privy Council and the Comptroller and Auditor General” substitute “Privy Council, the Comptroller and Auditor General and the Auditor General for Scotland”.

### **New section 2E**

6. After section 2D(b), insert the following section—

#### **“Registration of members’ private interests**

2E.—(1) The Council must establish and maintain a system for the declaration and registration of private interests of their members.

(2) The Council must publish entries recorded in the register of members’ private interests.”

### **Amendment of section 27**

7. In section 27(c) (which relates to allegations against registered dentists), in subsection (2), omit “or” at the end of paragraph (f) and after paragraph (g) insert—

- “(h) the Independent Barring Board including the person in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006(d) or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007(e)); or
- (i) the Scottish Ministers including the person in the children’s list or the adults’ list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007(f)).”

### **Amendment of section 36N**

8. In section 36N(g) (which relates to allegations against registered dental care professionals), in subsection (2), omit “or” at the end of paragraph (f) and after paragraph (g) insert—

- “(h) the Independent Barring Board including the person in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007); or
- (i) the Scottish Ministers including the person in the children’s list or the adults’ list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007).”

### **Amendment of section 41**

9. In section 41 (restriction on individuals), in subsection (2A)(h), for “paragraph (a), (d), (e), (f) or (g)” substitute “paragraphs (a) and (d) to (i)”.

### **Amendment of section 50C**

10. In section 50C(i) (rules), in the final entry in the list in subsection (2), for “paragraphs 4(2) and 8(1)(a) and (b)” substitute “paragraph 8(1)(b)”.

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(a) Section 2C was inserted by S.I. 2005/2011.  
(b) Section 2D was inserted by S.I. 2005/2011.  
(c) Section 27 was substituted by S.I. 2005/2011.  
(d) 2006 c.47.  
(e) S.I. 2007/1351 (N. I. 11).  
(f) 2007 asp 14.  
(g) Section 36N was inserted by S.I. 2005/2011.  
(h) Subsection (2A) was inserted by S.I. 2005/2011.  
(i) Section 50C was inserted by S.I. 2005/2011.

## Amendment of section 51

11. In section 51(a) (exercise of powers conferred on Privy Council)—

(a) in subsection (3), for paragraph (c) substitute the following paragraph—

“(c) approving rules under Schedule 3(b) (proceedings before the Investigating Committee, the Interim Orders Committee and Practice Committees: dentists), including rules made under Schedule 3 as applied (with modifications) by—

(i) section 44A(c) (supplementary provisions relating to financial penalties in relation to bodies corporate), or

(ii) paragraph 4(7) of Schedule 2A(d) (registration appeals: dentists register),”;

and

(b) for subsections (4) and (5) substitute the following subsections—

“(4) A statutory instrument which contains an order made by the Privy Council approving—

(a) regulations under section 36A(2) (professions complementary to dentistry);

(b) rules under section 36L (insurance); or

(c) rules under Schedule 4B(e) (proceedings before the Investigating Committee, the Interim Orders Committee and Practice Committees: dental care professionals), including rules made under Schedule 4B as applied (with modifications) by paragraph 4(7) of Schedule 4A(f) (registration appeals: dental care professionals register),

shall be subject to annulment in pursuance of a resolution of either House of Parliament or, where subsection (5) applies, a resolution of either House of Parliament or a resolution of the Scottish Parliament.

(5) This subsection applies where an order of the Privy Council mentioned in subsection (4)—

(a) approves regulations under section 36A(2) that specify a profession complementary to dentistry, or a class of members of a profession complementary to dentistry, which immediately before the revocation of the Dental Auxiliaries Regulations 1986 did not constitute a class of dental auxiliaries regulated by those Regulations; or

(b) approves rules that apply to such a profession or such a class of members of such a profession.”

## Amendment of section 53

12. In section 53 (interpretation), in subsection (3)(g), after “the provision” (at both places) insert “, supervision or management”.

## Amendment of Schedule 1

13.—(1) Schedule 1(h)(the Council and Committees of the Council: supplementary provisions) is amended in accordance with this paragraph.

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(a) Section 51 has been amended by the National Health Service Reform and Health Care Professions Act 2002 (c.17), Schedule 9, Part 2, and by S.I. 2005/2011.

(b) Schedule 3 was substituted by S.I. 2005/2011.

(c) Section 44A was inserted by S.I. 2005/2011.

(d) Schedule 2A was inserted by S.I. 2005/2011.

(e) Schedule 4B was inserted by S.I. 2005/2011.

(f) Schedule 4A was inserted by S.I. 2005/2011.

(g) Subsection (3) has been amended by the National Health Service (Primary Care) Act 1997 (c.46), Schedule 2, paragraph 62, and the National Health Service (Consequential Provisions) Act 2006 (c.43), Schedule 1, paragraphs 80 and 82.

(h) Schedule 1 has been amended by: the Health and Social Care (Community Health and Standards Act 2003 (c.43), Schedule 12, paragraph 3; the Health Act 2006 (c.28), Schedule 8, paragraph 27; and by S.I. 20013926 and 2005/2011.

(2) For paragraph 1 (constitution) substitute the following paragraphs—

*“Constitution*

**1A.**—(1) The Council shall consist of—

- (a) registrant members, that is members who are registered dentists or registered dental care professionals; and
- (b) lay members, that is members who—
  - (i) are not and never have been registered dentists or registered dental care professionals, and
  - (ii) do not hold qualifications which would entitle them to apply for registration as a registered dentist or registered dental care professional.

(2) The members of the Council shall be appointed by the Privy Council.

(3) The Privy Council shall ensure that, at any time, at least one member of the Council lives or works wholly or mainly in each of England, Scotland, Wales and Northern Ireland.

(4) Before the Privy Council directs the Appointments Commission under section 60(1) of the Health Act 2006 to exercise any function of the Privy Council relating to the appointment of members of the Council, the Privy Council shall consult the Council.

*Matters for the order of the Privy Council under section 1(2A)*

**1B.**—(1) An order under section 1(2A) shall include provision with regard to—

- (a) the numbers of registrant members and lay members of the Council;
- (b) the terms of office for which members of the Council are appointed, and the order may provide that these are to be determined by the Privy Council, on appointment;
- (c) the grounds on which persons are to be disqualified from appointment as registrant or lay members of the Council;
- (d) the appointment of a chair of the Council and the chair’s term of office, and the order may provide that the term is to be determined by whoever makes the appointment as chair, on appointment;
- (e) deputising arrangements in respect of the chair;
- (f) the quorum of the Council; and
- (g) the circumstances in which members cease to hold office or may be removed or suspended from office.

(2) But an order under section 1(2A) must not include any provision which would have the effect that a majority of the members of the Council would be lay members.

(3) An order under section 1(2A) may include provision with regard to—

- (a) the maximum period for which a member of the Council may hold office as a member during a specified period;
- (b) the maximum period for which a member of the Council may serve as chair of the Council during a specified period;
- (c) the education and training of members of the Council, and the order may provide for the Council to include the requirements with regard to education and training of its members in standing orders, and for those standing orders to provide for—
  - (i) that education and training to be the responsibility of another body, and
  - (ii) those requirements to be set and varied by that body from time to time;
- (d) the attendance of members of the Council at meetings of the Council; and
- (e) the effect (if any) of any vacancy in the membership of the Council or any defect in the appointment of a member.

(4) An order under section 1(2A) may make different provision for different cases or different classes of case and may contain such incidental, consequential, transitional, transitory, saving or supplementary provisions as appear to the Privy Council to be necessary or expedient.”

(3) Omit paragraphs 2 (lay members), 3 (members who are registered dentists or registered dental care professionals) and 4 (Council President).

(4) In paragraph 6(a) (which relates to general powers of the Council)—

- (a) in sub-paragraph (3), omit “of the Council and”; and
- (b) in sub-paragraph (4), omit “of the Council or”.

(5) In paragraph 8 (which relates to the general powers of the Council to make rules)—

- (a) in sub-paragraph (1), omit paragraph (a); and
- (b) after sub-paragraph (1A)(b) insert the following sub-paragraphs—

“(1B) Rules made under sub-paragraph (1)(c) may make provision for a body (including a committee of the Council which is not one of the committees referred to in section 2) to assist the Council in connection with the exercise of any function relating to the appointment of members or particular members of the Council’s committees.

(1C) Rules made under sub-paragraph (1)(c) by virtue of sub-paragraph (1B) may authorise a body—

- (a) to appoint committee members on behalf of the Council; or
- (b) to perform any function relating to tenure of office or suspension or removal from office.”

(6) After paragraph 8 insert the following paragraph—

“**8A.**—(1) Subject to any provision made by this Act or by rules under this Act, the Council may regulate its procedures and the procedures of its committees and sub-committees, other than the committees referred to in section 2, by standing orders.

(2) Standing orders of the Council may make provision with regard to the provisional suspension of a member of the Council from office, pending the taking of a decision about the suspension or removal from office of the member in accordance with the provisions of an order under section 1(2A).

(3) Subject to any provision made by this Act, by rules under this Act or by standing orders made by virtue of sub-paragraph (1), each committee and sub-committee of the Council may regulate its own procedures.”

## SCHEDULE 2

Article 3(2)

### Amendments to the Health Professions Order 2001

#### Amendment of article 3

1. In article 3 (the Health Professions Council and its Committees)—

- (a) for paragraph (5) substitute the following paragraphs—

“(5) In exercising its functions, the Council shall—

- (a) have proper regard for—
  - (i) the interests of persons using or needing the services of registrants in the United Kingdom, and

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(a) Amended by S.I. 2001/3926.

(b) Inserted by S.I. 2005/2011.

- (ii) any differing interests of different categories of registrants;
- (b) co-operate, in so far as is appropriate and reasonably practicable, with public bodies or other persons concerned with—
  - (i) the employment (whether or not under a contract of service) of registrants,
  - (ii) the education or training of registrants or other health care professionals,
  - (iii) the regulation of, or the co-ordination of the regulation of, other health or social care professionals,
  - (iv) the regulation of health services, and
  - (v) the provision, supervision or management of health or education services.

(5A) In carrying out its duty to co-operate under paragraph (5)(b), the Council shall have regard to any differing considerations relating to practising as a registrant which apply in England, Scotland, Wales or Northern Ireland.

(5B) In paragraph (5), “other health care professionals” means persons regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002<sup>(a)</sup> (which relates to the Council for Healthcare Regulatory Excellence), other than the Council.”;

- (b) omit paragraph (7);
- (c) before paragraph (8) insert the following paragraph—
 

“(7A) The Council shall be constituted as provided for by order of the Privy Council, subject to Part 1 of Schedule 1.”;
- (d) in paragraph (8), after “of the Council” insert “and orders of the Privy Council under paragraph (7A)”;
- (e) in paragraph (17)(a), after “the Secretary of State” insert “and the Scottish Ministers”.

#### **Amendment of article 5**

2. In article 5 (establishment and maintenance of register), in paragraph (3)(a), omit “the Conduct and Competence Committee in addition to”.

#### **Amendment of article 13**

3. In article 13(b) (transitional provisions relating to admission to the register), in paragraph (1)—

- (a) for sub-paragraph (c) substitute—
 

“(c) who has never been registered in respect of that profession—

  - (i) under the 1960 Act or this Order,
  - (ii) in the case of an operating department practitioner, in the AODP register, or
  - (iii) in the case of a practitioner psychologist, in the BPS register or the AEP register; and”;
- (b) in sub-paragraph (d), after “two years” add “, or in the case of practitioner psychologists three years,”.

#### **Amendment of article 21**

4. In article 21 (Council’s functions in respect of fitness to practise, ethics and other matters), in paragraph (3)(a), omit “standards or” and “the Conduct and Competence Committee in addition to”.

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(a) 2002 c.17.  
 (b) Amended by S.I. 2004/2033.

### **Amendment of article 22**

5. In article 22 (allegations), in paragraph (1)(a), omit “or” at the end of paragraph (iv) and after paragraph (v) insert—

- “(vi) the Independent Barring Board including the person in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007), or
- (vii) the Scottish Ministers including the person in the children’s list or the adults’ list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007);”.

### **Amendment of article 25**

6. In article 25 (Council’s power to require disclosure of information)—

- (a) in paragraph (1)—
  - (i) for “them in” substitute “the Council or any of its Practice Committees in”, and
  - (ii) for “a Practice Committee” substitute “the Council”;
- (b) in paragraph (5), for “the Practice Committee in respect of the allegation with which it is dealing” substitute “a Practice Committee with regard to the person concerned”; and
- (c) omit paragraph (6).

### **Amendment of article 27**

7. In article 27 (the Conduct and Competence Committee), omit paragraph (a) and the “and” at the end of that paragraph.

### **Amendment of article 32**

8. In article 32 (investigation of allegations: procedural rules), in paragraph (4), for “Chairman” substitute “chair”.

### **Amendment of article 37**

9. In article 37(a) (appeals against decisions of the Education and Training Committee)—

- (a) in paragraph (5)—
  - (i) in sub-paragraph (a), after “an appeal” insert “and for the membership of any panel considering such an appeal on the Council’s behalf”,
  - (ii) in sub-paragraph (c)(ii), omit “(who shall not be a registered medical practitioner)”, and
  - (iii) in sub-paragraph (g), for “Chairman” substitute “chair”; and
- (b) after paragraph (5) insert the following paragraph—

“(5A) For the purposes of paragraph (5), “lay member” means a person who is not and never has been—

  - (a) a registrant or registered under the 1960 Act;
  - (b) a member of the Association of Operating Department Practitioners, the Association of Educational Psychologists or the British Psychological Society; or
  - (c) a registered medical practitioner.”

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(a) Amended by S.I. 2007/3101.

### **Amendment of article 39**

10. In article 39 (offences), in paragraph (2)(a), for “13(1)(b)” substitute “13(1)(d)”.

### **Amendment of article 41**

11. In article 41 (rules and orders)—

- (a) in paragraph (1), after “this Order” insert “, apart from rules made solely under paragraph 17 of Schedule 1,”; and
- (b) in paragraph (3), after “this Order,” insert “ apart from rules made solely under paragraph 17 of Schedule 1,”.

### **Amendment of article 42**

12. In article 42 (exercise of powers by the Privy Council)—

(a) after paragraph (2) insert the following paragraph—

“(2A) For the purposes of section 1 of the Statutory Instruments Act 1946 (definition of “Statutory Instrument”), any power of the Privy Council to make an order under this Order is to be taken to be conferred by an Act of Parliament.”; and

(b) for paragraph (3) substitute the following paragraphs—

“(3) A statutory instrument that contains an order made by the Privy Council, other than an order made under article 48(2) or under paragraph 19, 20 or 21 of Schedule 2, shall—

- (a) where paragraph (3A) applies, be subject to annulment in pursuance of a resolution of either House of Parliament or a resolution of the Scottish Parliament; or
- (b) where paragraph (3A) does not apply, be subject to annulment in pursuance of a resolution of either House of Parliament.

(3A) This paragraph applies to a statutory instrument containing—

- (a) an order under article 6(3) that includes measures relating to the regulation of operating department practitioners or practitioner psychologists; or
- (b) an order approving rules under article 5(2)(b), 7(2)(c) or (d), 9(2), 10, 19, 26(3), 30(9), 32, 33(4) or 37(4) that include measures relating to the regulation of operating department practitioners or practitioner psychologists.”

### **Substitution of article 44**

13. For article 44 (annual reports) substitute the following article—

#### **“Annual reports, statistical reports and strategic plans**

44.—(1) The Council shall publish, by such date in each year as the Privy Council shall specify—

- (a) a report on the exercise of its functions which includes a description of the arrangements that the Council has put in place to ensure that it adheres to good practice in relation to equality and diversity (and for these purposes “equality” and “diversity” have the meanings given in section 8(2) of the Equality Act 2006 (equality and diversity));
- (b) a statistical report which indicates the efficiency and effectiveness of, and which includes a description of, the arrangements which the Council has put in place under article 21(1)(b) to protect members of the public from registrants whose fitness to practise is impaired, together with the Council’s observations on the report; and
- (c) a strategic plan for the Council in respect of such number of years as the Council shall determine.

(2) The Council shall submit copies of the reports and the plan published under paragraph (1) to the Privy Council and the Privy Council shall lay copies of the reports and the plan before each House of Parliament and before the Scottish Parliament.”

#### **Amendment of article 46**

**14.** In article 46 (accounts of the Council)—

- (a) for paragraph (3) substitute the following paragraph—

“(3) The Council shall ensure that the persons it appoints are eligible for appointment as statutory auditors under Part 42 of the Companies Act 2006<sup>(a)</sup> (statutory auditors).”;
- (b) in paragraph (4)(b), for “the Privy Council and to the Comptroller and Auditor General” substitute “the Privy Council, the Comptroller and Auditor General and the Auditor General for Scotland”; and
- (c) in paragraph (7), after “House of Parliament” insert “and the Scottish Parliament”.

#### **Amendment of Schedule 1**

**15.—**(1) Schedule 1 (the Health Professions Council and committees) is amended in accordance with this paragraph.

(2) In Part 1(b), for paragraphs 1 to 12 substitute the following paragraphs—

##### **“Membership: general**

**1A.—**(1) The Council shall consist of—

- (a) registrant members, that is members who are registrants; and
- (b) lay members, that is members who—
  - (i) are not and never have been registrants or registered under the 1960 Act or in the AODP register, the AEP register or the BPS register; and
  - (ii) do not hold qualifications which would entitle them to apply for registration under this Order.

(2) The members of the Council shall be appointed by the Privy Council.

(3) The Privy Council shall ensure that, at any time, at least one member of the Council lives or works wholly or mainly in each of England, Scotland, Wales and Northern Ireland.

(4) Before the Privy Council directs the Appointments Commission under section 60(1) of the Health Act 2006 to exercise any function of the Privy Council relating to the appointment of members of the Council, the Privy Council shall consult the Council.

##### **Matters for the order of the Privy Council under article 3(7A)**

**1B.—**(1) An order under article 3(7A) shall include provision with regard to—

- (a) the numbers of registrant members and lay members of the Council;
- (b) the terms of office for which members of the Council are appointed, and the order may provide that these are to be determined by the Privy Council, on appointment;
- (c) the grounds on which persons are to be disqualified from appointment as registrant or lay members of the Council;
- (d) the appointment of a chair of the Council and the chair’s term of office, and the order may provide that the term is to be determined by whoever makes the appointment as chair, on appointment;

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(a) 2006 c.46.

(b) Part 1 has been amended by the Health and Social Care (Community Health and Standards) Act 2003, Schedule 12, paragraph 8, the Health Act 2006, Schedule 8, paragraph 48, and Schedule 9, and by S.I. 2004/2033.

- (e) deputising arrangements in respect of the chair;
- (f) the quorum of the Council; and
- (g) the circumstances in which members cease to hold office or may be removed or suspended from office.

(2) But an order under article 3(7A) must not include any provision which would have the effect that a majority of the members of the Council would be lay members.

(3) An order under article 3(7A) may include provision with regard to—

- (a) the maximum period for which a member of the Council may hold office as a member during a specified period;
- (b) the maximum period for which a member of the Council may serve as chair of the Council during a specified period;
- (c) the education and training of members of the Council, and the order may provide for the Council to include the requirements with regard to education and training of its members in standing orders, and for those standing orders to provide for—
  - (i) that education and training to be the responsibility of another body, and
  - (ii) those requirements to be set and varied by that body from time to time;
- (d) the attendance of members of the Council at meetings of the Council; and
- (e) the effect (if any) of any vacancy in the membership of the Council or any defect in the appointment of a member.

(4) An order under article 3(7A) may make different provision for different cases or different classes of case and may contain such incidental, consequential, transitional, transitory, saving or supplementary provisions as appear to the Privy Council to be necessary or expedient.”

(3) For paragraph 13, substitute the following paragraph—

“**13.**—(1) Subject to any provision made by this Order or under this Order (otherwise than by standing orders), the Council may by standing orders make provision in respect of—

- (a) its procedure;
- (b) the performance of its functions;
- (c) the constitution of its committees and sub-committees, other than the statutory committees;
- (d) the procedure of any of its committees or sub-committees;
- (e) the performance by any of its committees or sub-committees of their functions; and
- (f) the standards of education, training, attendance and performance expected of the members of its committees and sub-committees.

(2) Standing orders of the Council may make provision with regard to the provisional suspension of a member of the Council from office, pending the taking of a decision about the suspension or removal from office of the member in accordance with the provisions of an order under article 3(7A).”

(4) In paragraph 14 (which relates to non-statutory committees and declarations of interests), omit sub-paragraph (3).

(5) In paragraph 15 (which relates to voting), in sub-paragraph (2), for “Chairman” substitute “chair”.

(6) In paragraph 16 (powers of the Council)—

- (a) omit sub-paragraph (2)(g); and
- (b) omit sub-paragraphs (6) and (7).

(7) In paragraph 17 (Education and Training Committee), for sub-paragraphs (1) and (2) substitute the following sub-paragraphs—

“(1) Subject to any provision made by this Order, the Council shall by rules make provision with regard to the constitution of the Education and Training Committee, and those rules shall include provision with regard to—

- (a) its size and membership;
- (b) the appointment, suspension and removal of its members;
- (c) its chair, including the deputising arrangements for its chair; and
- (d) the quorum at its meetings.

(2) The rules may make provision for a body (including a committee of the Council other than the Education and Training Committee) to assist the Council in connection with the exercise of any function relating to the appointment of members or particular members of the Education and Training Committee, including any function relating to tenure of office or suspension or removal from office.

(2A) The Council shall have regard, where appropriate, when appointing non-Council members to the Education and Training Committee, to the guidance issued by the Commissioner for Public Appointments.

(2B) Subject to any provision made by or under this Order, including provision made by standing orders of the Council made under paragraph 13(d), the Education and Training Committee may regulate its own procedure.”

(8) For paragraph 18 (which relates to the constitution of Practice Committees), substitute the following paragraph—

“**18.**—(1) Subject to any provision made by this Order, the Council shall by rules make provision with regard to the constitution of each Practice Committee, and those rules shall include provision with regard to—

- (a) its size and membership;
- (b) the appointment, suspension and removal of its members;
- (c) its chair, including the deputising arrangements for its chair; and
- (d) the quorum at its meetings.

(2) Where the rules provide for one or more panels of members of a Practice Committee to perform functions of the Committee, the provision required by sub-paragraph (1)(d) includes provision with regard to the quorum at meetings of those panels.

(3) The rules may make provision for a body (including a committee of the Council which is not one of the Practice Committees) to assist the Council in connection with the exercise of any function relating to the appointment of members or particular members of a Practice Committee, including any function relating to tenure of office or suspension or removal from office.

(4) Subject to any provision made by or under this Order, including provision made by standing orders of the Council made under paragraph 13(d), each Practice Committee may regulate its own procedure.”

(9) In paragraph 19 (which relates to supplemental matters relating to Practice Committees)—

- (a) omit sub-paragraphs (1) to (4), (6), (9) and (11); and
- (b) in sub-paragraph (8), for “Chairman” substitute “chair”.

### **Amendment of Schedule 3**

**16.** In Schedule 3(a) (interpretation), in paragraph 1—

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(a) Schedule 3 has been amended by S.I. 2003/3148 and 2004/1947 and 2033.

- (a) after the definition of “the 1960 Act” insert the following definition—
  - ““the 2009 Order” means the Health Care and Associated Professions (Miscellaneous Amendments and Practitioner Psychologists) Order 2009;”;
- (b) insert the following definition at the appropriate place in the alphabetical order—
  - ““enactment” has the same meaning as in Schedule 3 to the Health Act 1999;”;
- (c) insert each of the following definitions at the appropriate place in the alphabetical order—
  - ““AEP register” means the aggregate of the entries in the membership list maintained by the Association of Educational Psychologists (which held its inaugural meeting at the London School of Economics on 14th April 1962 and was founded on that date<sup>(a)</sup>) that relate to full members of the Association;”;
  - ““BPS register” means the aggregate of the entries in the register maintained by the British Psychological Society (which was incorporated by Royal Charter on 26th February 1965<sup>(b)</sup>) that relate to holders of practising certificates who are full members of one or more of the divisions of the Society in respect of the following branches of psychology: clinical psychology; counselling psychology; educational psychology; forensic psychology; health psychology; occupational psychology; and sport and exercise psychology;”;
  - ““practitioner psychologists” means clinical psychologists, counselling psychologists, educational psychologists, forensic psychologists, health psychologists, occupational psychologists and sport and exercise psychologists, and this group of professions is to be treated as a single profession for the purposes of this Order;”;
- (d) in the definition of “relevant professions”, after “physiotherapists;” insert “practitioner psychologists;”;
- (e) omit the definitions of “alternate member”, “corresponding registrant member”, “lay member” and “registrant member”.

**Temporary measures pending the introduction of the new composition of the Council**

- 17.—(1) In Schedule 1(c) (the Health Professions Council and committees)—
- (a) in paragraph 1 (which relates to membership of the Council)—
    - (i) in sub-paragraph (1)(c), before “13 members” insert “subject to sub-paragraph (2A),”;
    - (ii) in sub-paragraph (2), before “The Council” insert “Subject to sub-paragraph (2A),” and
    - (iii) after sub-paragraph (2) insert the following sub-paragraph—
      - “(2A) The Council need not appoint an alternate member for a particular registrant member, where to do so would require it to hold a by-election, and in these circumstances there shall be no alternate member for that registrant member (and the number of alternate members of the Council shall be reduced accordingly) unless or until an election (including a by-election) needs to be held to replace that registrant member.”;
  - (b) in paragraph 2(2), before “The election scheme shall provide” insert “Subject to paragraph 1(2A),”;
  - (c) in paragraph 9 (tenure of members)—
    - (i) in sub-paragraph (1), before “Each member’s term” insert “Subject to sub-paragraphs (1A) and (1B),”;
    - (ii) after sub-paragraph (1) insert the following sub-paragraphs—

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(a) The Association of Educational Psychologists is at 4 The Riverside Centre, Frankland Lane, Durham, DH1 5TA.  
 (b) The British Psychological Society is at St Andrews House, 48 Princess Road East, Leicester, LE1 7DR. The Society’s Royal Charter has been amended six times, and is available, in its amended form, on the Society’s website at [www.bps.org.uk](http://www.bps.org.uk).  
 (c) These measures which, by virtue of article 1(2)(c), will come into force on the day after the day on which this Order is made will take effect until the repeal of the provisions that they amend.

“(1A) The term of office of any registrant or alternate member who holds office on 8th July 2009 shall expire at the end of 8th July 2010 or on the coming into force of the first order of the Privy Council under article 3(7A), whichever is the sooner.

(1B) The full term of office of any registrant or alternate member who ceases to be a member before 8th July 2009 and whose vacancy remains unfilled at the end of 8th July 2009 shall, for the purposes of paragraph 8(2), be treated as if it would have expired at the end of 8th July 2010 or on the coming into force of the first order of the Privy Council under article 3(7A), whichever is the sooner.”

(2) In Schedule 2 (transitional provisions), omit paragraph 6 (which relates to the tenure of office of members following the end of the second transitional period).

**Potential temporary measures if registration of practitioner psychologists is introduced before the reform of the composition of the Council**

**18.** In Part 1 of Schedule 1(a) (the Health Professions Council)—

- (a) in paragraph 1(1)—
  - (i) in paragraph (a), for “13 members who are” substitute “14 members who, subject to sub-paragraph (5), are”,
  - (ii) in paragraph (b), for “12 members” substitute “13 members”, and
  - (iii) in paragraph (c), for “13 members” substitute “14 members who, subject to sub-paragraph (5), are”;
- (b) in paragraph 1, after sub-paragraph (4) insert the following sub-paragraph—

“(5) On the coming into force of paragraph 18(a) of Schedule 2 to the 2009 Order, the Privy Council shall appoint a person to be the first registrant member and a person to be the first alternate member in respect of the part of the register which relates to practitioner psychologists.”;
- (c) in paragraph 2(1), after “1(2A)” insert “and (5)”;
- (d) in paragraph 2(2)—
  - (i) in paragraph (a)(i), for “be elected for” substitute “represent”, and
  - (ii) in paragraph (c), omit “elected”;
- (e) in paragraph 3, for “or the AODP register” substitute “, the AODP register, the AEP register or the BPS register”; and
- (f) in paragraph 9 (which relates to tenure of members)—
  - (i) in sub-paragraph (1), for “Subject to sub-paragraphs (1A) and (1B),” substitute “Subject to sub-paragraphs (1A) to (1C),”, and
  - (ii) after sub-paragraph (1B) insert the following sub-paragraph—

“(1C) The terms of office of—

    - (a) the first registrant member and the first alternate member appointed in respect of the part of the register which relates to practitioner psychologists; and
    - (b) the corresponding additional lay member,

shall expire at the end of 8th July 2010 or on the coming into force of the first order of the Privy Council under article 3(7A), whichever is the sooner.”

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(a) The amendments in this paragraph will become redundant if statutory regulation of registered psychologists is commenced after the commencement of paragraph 12(2) of this Schedule.

## Amendments to the Pharmacists and Pharmacy Technicians Order 2007

**Amendment of article 2****1.** In article 2 (extent)—

- (a) in paragraph (1), for “paragraphs (2) and” substitute “paragraph”; and
- (b) omit paragraph (2).

**Amendment of article 3****2.** In article 3(a) (interpretation), after paragraph (2) insert the following paragraph—

“(3) For the purposes of articles 19A and 19B, “emergency” means an emergency of the type described in section 19(1)(a) of the Civil Contingencies Act 2004(b) (meaning of “emergency”), read with subsection (2)(a) and (b) of that section.”

**Amendment of article 4****3.** In article 4 (the Society’s general duties)—

- (a) in paragraph (2)(a)—
  - (i) in paragraph (i), for “registered pharmacists” substitute “registrants”,
  - (ii) at the end of paragraph (i) insert “and”, and
  - (iii) omit paragraph (ii) and the “and” at the end of that paragraph;
- (b) in paragraph (2)(b), omit the “and” at the end of paragraph (iii) and for paragraph (iv) substitute the following paragraphs—
  - “(iv) the regulation of health services, and
  - (v) the provision, supervision or management of health services.”; and
- (c) in paragraph (3)(b), after “England” insert “, Scotland”.

**Amendment of article 6****4.** In article 6 (the Council’s duties in respect of publications)—

- (a) for paragraph (1) substitute the following paragraphs—

“(1) The Council shall publish, by such date in each year as the Privy Council shall specify—

  - (a) a report on the exercise of the Society’s functions which includes a description of the arrangements that the Society has put in place to ensure that it adheres to good practice in relation to equality and diversity (and for these purposes “equality” and “diversity” have the meanings given in section 8(2) of the Equality Act 2006 (equality and diversity)); and
  - (b) a statistical report which indicates the efficiency and effectiveness of, and which includes a description of, the arrangements which the Society has put in place to protect members of the public from registrants whose fitness to practise is impaired, together with the Council’s observations on the report.

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(a) Amended by S.I. 2007/3101.  
(b) 2004 c.36.

(1A) The Council shall submit copies of the reports published under paragraph (1) to the Privy Council and the Privy Council shall lay copies of the reports before each House of Parliament and before the Scottish Parliament.”;

(b) for paragraph (3), substitute the following paragraph—

“(3) Those annual accounts shall be audited by auditors appointed by the Council, and the Council shall ensure the persons it appoints are eligible for appointment as statutory auditors under Part 42 of the Companies Act 2006 (statutory auditors).”; and

(c) in paragraph (4), after “House of Parliament” insert “and the Scottish Parliament”.

#### **Amendment of article 7**

5. In article 7 (the statutory committees), in paragraph (5)(d), after “established under the Charter” insert “or a group established for the purposes of paragraph (2)(b) in accordance with rules under this article”.

#### **New articles 19A and 19B**

6. After article 19, insert the following articles—

##### **“Temporary registration with regard to emergencies involving loss of human life or human illness etc.**

**19A.**—(1) If the Secretary of State advises the Registrar that an emergency has occurred, is occurring or is about to occur and that action should be considered under this article, the Registrar may register under this article—

- (a) a person in Part 1 of the Register of Pharmacists, if the Registrar considers that the person is a fit, proper and suitably experienced person to be registered in Part 1 of the Register of Pharmacists with regard to the emergency; or
- (b) the persons comprising a specified group of persons in Part 1 of the Register of Pharmacists, if the Registrar considers that the group is comprised of persons who may reasonably be considered fit, proper and suitably experienced persons to be registered in Part 1 of the Register of Pharmacists with regard to the emergency.

(2) The Registrar may register under this article by virtue of paragraph (1)(b) all of the persons comprising a specified group of persons without first identifying each person in the group.

(3) The registration of a person under this article is subject to such conditions as the Registrar may specify, and the Registrar may at any time vary the conditions to which a person’s registration under this article is subject (including by adding to the conditions or revoking any conditions).

(4) The registration of any person registered under this article by virtue of paragraph (1)(b) as one of a specified group may be subject to the same conditions as the registration of other members of the group, or it may be subject to different conditions.

(5) A person’s registration under this article shall cease to have effect if revoked by the Registrar, which—

- (a) the Registrar must do if the Secretary of State advises the Registrar that the circumstances that led the Secretary of State to advise the Registrar as mentioned in paragraph (1) no longer exist;
- (b) the Registrar may do for any other reason at any time, including where the Registrar has grounds for suspecting that the person’s fitness to practise may be impaired.

(6) The registration of a person registered under this article by virtue of paragraph (1)(b) as one of a specified group may be revoked without revoking the registration of the other

members of the group, or it may be revoked by virtue of a decision to revoke the registration of all the members of the group.

(7) Articles 11 to 18, 35, 38 and 39, and Part 5 apart from articles 45 to 47, shall not apply to persons registered under this article (in their capacity as such).

(8) If a person who is registered under this article is already registered in Part 2 of the Register of Pharmacists, that person shall—

- (a) while that person is registered under this article, be considered as solely registered in Part 1 of that register; and
- (b) once that person ceases to be registered under this article, be considered as registered in Part 2 of that register.

(9) Notwithstanding article 19—

- (a) a person who is registered under this article is not a member of the Society, unless immediately prior to registration under this article that person was registered in Part 2 of the Register of Pharmacists;
- (b) where a person is considered as registered in Part 2 of the Register of Pharmacists by virtue of paragraph (8)(b), that person does not cease to be a member of the Society when that person's registration under this article ceases.

(10) If a person breaches any condition to which the person's registration under this article is subject, anything done by that person in breach of that condition is to be treated as not being done by a pharmacist registered in Part 1 of the Register of Pharmacists.

(11) The Registrar may make available information to assist with the identification of persons registered under this article in such manner as the Registrar sees fit.

**Temporary annotations with regard to emergencies involving loss of human life or human illness etc.**

**19B.**—(1) If the Secretary of State advises the Registrar that an emergency has occurred, is occurring or is about to occur and that action should be considered under this article, the Registrar may annotate—

- (a) the entry of a registrant in Part 1 of the Register of Pharmacists to indicate that the registrant is qualified to order drugs, medicines and appliances in a specified capacity, notwithstanding that the registrant is not so qualified, if the Registrar considers that the registrant is a fit, proper and suitably experienced person to order drugs, medicines and appliances in that capacity with regard to the emergency; or
- (b) the entries of a specified group of registrants in Part 1 of the Register of Pharmacists to indicate that they are qualified to order drugs, medicines and appliances in a specified capacity, notwithstanding that they are not so qualified, if the Registrar considers that the group is comprised of registrants who are of a type who may reasonably be considered fit, proper and suitably experienced persons to order drugs, medicines and appliances in that capacity with regard to the emergency.

(2) The Registrar may make the annotation in such a way so as to distinguish registrants whose entry is annotated by virtue of paragraph (1) from registrants in respect of whom the annotation is made otherwise than by virtue of paragraph (1).

(3) Annotations made by virtue of paragraph (1)—

- (a) must be removed by the Registrar if the Secretary of State advises the Registrar that the circumstances that led the Secretary of State to advise the Registrar as mentioned in paragraph (1) no longer exist;
- (b) may be removed by the Registrar at any time, including where the Registrar has grounds for suspecting that the person's fitness to order drugs, medicines or appliances may be impaired.

(4) A registrant whose entry in Part 1 of the Register of Pharmacists is annotated by virtue of paragraph (1)(b) as one of a specified group may have that annotation removed without the Registrar removing the equivalent annotations of the other members of the group or by virtue of a decision to remove the annotations made by virtue of paragraph (1)(b) of all the members of the group.”

#### **Amendment of article 22**

7. In article 22 (entitlement to registration in the Register of Pharmacy Technicians), in paragraph (2), for “England, Wales” substitute “Great Britain”.

#### **Amendment of article 23**

8. In article 23 (preregistration requirements for pharmacy technicians in respect of qualifications and additional education, training or experience), in paragraph (1)—

- (a) in sub-paragraph (a), for “England or Wales” substitute “Great Britain”; and
- (b) in sub-paragraph (c), for “England or Wales” (in both places) substitute “Great Britain”.

#### **Amendment of article 24**

9. In article 24 (general functions of the Society in respect of pharmacy technicians’ and prospective pharmacy technicians’ education, training and the acquisition of experience), in paragraph (b), for “England and Wales,” substitute “Great Britain.”

#### **Amendment of article 25**

10. In article 25 (specific obligations of the Society in respect of pharmacy technicians’ and prospective pharmacy technicians’ education, training and the acquisition of experience), in paragraph (a), for “England and Wales” substitute “Great Britain”.

#### **Amendment of article 30**

11. In article 30 (the Society’s registers)—

- (a) in paragraph (3)—
  - (i) omit “and” at the end of sub-paragraph (d)(ii),
  - (ii) insert “and” at the end of sub-paragraph (e), and
  - (iii) after sub-paragraph (e) insert the following sub-paragraph—
    - “(f) a note so as to distinguish annotations made under article 19B from other annotations of entries of registered pharmacists who are qualified to order drugs, medicines and appliances in a specified capacity.”; and
- (b) after paragraph (5) insert the following paragraph—
  - “(6) Notwithstanding any other provision of this Order, the Registrar is not under an obligation to make an entry in the Register of Pharmacists in respect of any person registered by virtue of article 19A(1)(b) until the Registrar has been able to ascertain the person’s name.”

#### **Amendment of article 32**

12. In article 32 (certificates of registration), in paragraph (1) after “registrant”, where it first appears, insert “(other than one registered under article 19A)”.

#### **Amendment of article 34**

13. In article 34 (corrections of the register), in paragraph (2), for “pharmacist or a pharmacy technician” substitute “person whom the Registrar General believes to be a registrant”.

#### **Amendment of article 40**

14. In article 40(a) (fees in connection with registration), in paragraph (1A), after “the Society’s registers” insert “, registration under article 19A or annotations under article 19B”.

#### **Amendment of article 42**

15. In article 42 (appealable registration decisions), in paragraph (1)(o), for “England and Wales” substitute “Great Britain”.

#### **Amendment of article 44**

16. In article 44 (appeals from the Registration Appeals Committee), in paragraph (2)—
- (a) in sub-paragraph (a), for “England or Wales” substitute “Great Britain”; and
  - (b) in sub-paragraph (b), omit “and” at the end of paragraph (i) and omit paragraph (ii).

#### **Amendment of article 46**

17. In article 46 (disclosure of information: general)—
- (a) for paragraph (1) substitute the following paragraph—

“(1) For the purpose of assisting the Society (including its Council, its staff and its committees) in carrying out any of their functions in respect of a registrant’s fitness to practise, or for the purpose of assisting the Registrar in carrying out functions in respect of identifying any person registered by virtue of article 19A(1)(b), a person authorised by the Society may require—

    - (a) any registrant (except the registrant in respect of whom the information or document is sought); or
    - (b) any other person,

who in the opinion of the person authorised by the Society is able to supply information or produce any document which appears to be relevant to the discharge of any such function, to supply such information or produce such a document.”; and
  - (b) in paragraph (5)(b), omit paragraph (i) and the “and” at the end of that paragraph.

#### **Amendment of article 48**

18. In article 48 (impairment of fitness to practise), in paragraph (1), omit “or” at the end of sub-paragraph (j) and after sub-paragraph (k) insert—

- “(l) the Independent Barring Board including the person in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007); or
- (m) the Scottish Ministers including the person in the children’s list or the adults’ list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007).”

#### **Amendment of article 49**

19. In article 49 (initial action in respect of allegations)—

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(a) A relevant amendment has been made by S.I. 2007/3101.

- (a) after paragraph (1) insert the following paragraph—
  - “(1A) Rules under paragraph (1) may provide for an allegation not to be referred where it is of a type that the Council has stated in threshold criteria, which it has published and which it may amend from time to time, should not be referred.”;
- (b) in paragraph (3)—
  - (i) in sub-paragraph (c), omit “if the registrant is a registered pharmacist,” and
  - (ii) insert “and” at the end of sub-paragraph (b), omit “and” at the end of sub-paragraph (c) and omit sub-paragraph (d); and
- (c) in paragraph (5)(b), omit “a registered pharmacist”.

#### **Amendment of article 53**

**20.** In article 53 (professional performance assessments), in paragraph (7), for sub-paragraphs (a) and (b) substitute the following sub-paragraphs—

- “(a) the county court (the central London county court in the case of a registrant who is not domiciled in Great Britain); or
- (b) if the records are being sought in relation to a registrant who is domiciled in Scotland, the sheriff in whose sheriffdom that registrant is domiciled.”.

#### **Amendment of article 54**

**21.** In article 54 (interim orders), in paragraph (12)(a), for “registered pharmacist” substitute “registrant”.

#### **Amendment of article 56**

**22.** In article 56 (appeals against appealable fitness to practise decisions), in paragraph (3)(b), omit “as regards an application relating to registration in the Register of Pharmacists,”.

#### **Amendment of article 58**

**23.** In article 58 (interim measures pending a direction taking effect), in paragraph (5)(a), for “registered pharmacist” substitute “registrant”.

#### **Amendment of article 66**

- 24.** In article 66 (rules), in paragraph (3)—
- (a) for “Part 6 of this Order” substitute “article 59”; and
  - (b) in sub-paragraph (c), omit “unless the rules relate exclusively to proceedings with regard to pharmacy technicians,”.

#### **Amendment of article 69**

- 25.** In article 69 (Privy Council procedures etc.)—
- (a) after paragraph (1) insert the following paragraphs—
    - “(1A) Subject to paragraph (1B), any power of the Privy Council to make an order under this Order, apart from an order approving byelaws which are made under paragraph 4(1) of Schedule 2 or an order approving rules which are made under article 7 (or article 7 together with article 66(1)), shall be exercisable by statutory instrument.
    - (1B) An order of the Privy Council approving rules which are made under article 7 (or article 7 together with article 66(1)) shall be made by statutory instrument if—
      - (a) it approves rules that amend rules that were approved by an order made by statutory instrument; or

- (b) it also approves rules that are not made under article 7 (or article 7 together with article 66(1)).”;
- (b) in paragraph (2)—
  - (i) for the words from “Any power” to “except for” substitute “A statutory instrument that contains an order made by the Privy Council other than an order made solely under article 68(2) or”;
  - (ii) for sub-paragraph (a) substitute the following sub-paragraph—
    - “(a) approving rules made under article 7 (or article 7 together with article 66(1)); or”;
  - (iii) omit “an order of the Privy Council under this Order”, and
  - (iv) after “House of Parliament” insert “or, if the order approves rules that include measures relating to the regulation of pharmacy technicians, a resolution of either House of Parliament or of the Scottish Parliament”;
- (c) in paragraph (3)—
  - (i) before “16,” insert “7,”; and
  - (ii) after “House of Parliament” insert “or (if the rules include measures relating to the regulation of pharmacy technicians) a resolution of either House of Parliament or of the Scottish Parliament”; and
- (d) for paragraph (4) substitute the following paragraph—
  - “(4) For the purposes of section 1 of the Statutory Instruments Act 1946 (definition of “Statutory Instrument”), any power to which paragraph (1A) or (1B) applies is to be taken to be conferred by an Act of Parliament.”

## **Amendment of Schedule 2**

- 26. In Schedule 2 (transitional provisions)—
  - (a) in paragraph 1(1) (which relates to interpretation of Schedule 2), in the definition of “appointed day”, for “Part 3”, in both places, substitute “Part 2”; and
  - (b) in paragraph 6 (transitional arrangements in respect of persons practising as pharmacy technicians before the statutory register is opened), in sub-paragraph (2)(b), for “England and Wales” substitute “Great Britain”.

## SCHEDULE 4

Article 4(1)

### Amendments to and revocations of subordinate legislation

#### PART 1

#### Amendments relating to the introduction of statutory regulation of practitioner psychologists

### **Amendment of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975**

- 1. In Schedule 1 to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975(a) (excepted professions, offices, employments, work and occupations)—
  - (a) in Part 1 (professions), omit paragraph 13; and
  - (b) in Part 4 (interpretation), omit the definition of “chartered psychologist”.

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(a) S.I. 1975/1023; the relevant amending instrument is S.I. 2002/441.

### **Amendment of the Representation of the People (England and Wales) Regulations 2001**

2. In regulation 53 of the Representation of the People (England and Wales) Regulations 2001(a) (additional requirements for applications for a proxy vote for a definite or indefinite period on grounds of blindness or any other disability), in paragraph (2), omit sub-paragraph (i).

### **Amendment of the Representation of the People (Scotland) Regulations 2001**

3. In regulation 53 of the Representation of the People (Scotland) Regulations 2001(b) (additional requirements for applications for a proxy vote for a particular or indefinite period on grounds of blindness or any other disability), in paragraph (2), omit sub-paragraph (i).

### **Amendment of the Care Homes Regulations 2001**

4. In regulation 2 of the Care Homes Regulations 2001(c) (interpretation), in paragraph (1), in the definition of “health care professional” for “clinical psychologist or” substitute “a”.

### **Amendment of the Private and Voluntary Health Care (England) Regulations 2001**

5. In regulation 2 of the Private and Voluntary Health Care (England) Regulations 2001(d) (interpretation), in paragraph (1), in the definition of “health care professional” omit “clinical psychologist or”.

### **Amendment of the Care Homes (Wales) Regulations 2002**

6. In regulation 2 of the Care Homes (Wales) Regulations 2002(e) (interpretation), in paragraph (1), in the definition of “health care professional”, omit “clinical psychologist or”.

### **Amendment of the Private and Voluntary Health Care (Wales) Regulations 2002**

7. In regulation 2 of the Private and Voluntary Health Care (Wales) Regulations 2002(f) (interpretation), in paragraph (1), in the definition of “health care professional” omit “clinical psychologist or”.

### **Amendment of the Health Professions (Parts of and Entries in the Register) Order of Council 2003**

8. In the Health Professions (Parts of and Entries in the Register) Order of Council 2003(g)—  
(a) after article 6 insert the following article—

#### **“Entries indicating the fields of competence of practitioner psychologists**

6A. Entries in Part 14 of the register are to include such entries as the Council considers appropriate to indicate whether the registrant’s field of competence is as a clinical psychologist, a counselling psychologist, an educational psychologist, a forensic psychologist, a health psychologist, an occupational psychologist, a sport and exercise psychologist, or a combination of these.”; and

(b) in Schedule 1 (parts of the register)—

(i) in column 1, after the entry “Part 13 – Operating Department Practitioners” add the following entry: “Part 14 – Practitioner Psychologists”, and

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(a) S.I. 2001/341; the relevant amending instrument is S.I. 2006/2910.

(b) S.I. 2001/497; the relevant amending instrument is S.I. 2007/925.

(c) S.I. 2001/3965; regulation 2(1) has been amended by S.I. 2004/664, 865 and 1770.

(d) S.I. 2001/3968; regulation 2(1) has been amended by S.I. 2004/664 and 865.

(e) S.I. 2002/324; the relevant amending instrument is S.I. 2004/1314.

(f) S.I. 2002/325.

(g) S.I. 2003/1571; the relevant amending instrument is S.I. 2004/2522.

- (ii) in column 2, after the entry “Operating Department Practitioner” and opposite the entry in column 1 added by paragraph (i), add the following entry: “Clinical Psychologist, Counselling Psychologist, Educational Psychologist, Forensic Psychologist, Health Psychologist, Occupational Psychologist, Practitioner Psychologist, Registered Psychologist, Sport and exercise Psychologist.”

**Amendment of the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003**

9. In Schedule 4 to the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003(a) (excepted professions, offices, employments, and occupations)—

- (a) in Part 1 (professions), omit paragraph 13; and  
(b) in Part 4 (interpretation), omit the definition of “chartered psychologist”.

**Amendment of the Health Professions Council (Registration Appeals) Rules 2003**

10. In rule 9 of the Health Professions Council (Registration Appeals) Rules 2003(b) (consideration by Appeal Panel), in paragraph (3), for sub-paragraph (b) substitute the following sub-paragraph—

“(b) a lay member; and”.

**Amendment of the Mental Health Tribunal for Scotland (Appointment of General Members) Regulations 2004**

11. In regulation 2(c) of the Mental Health Tribunal for Scotland (Appointment of General Members) Regulations 2004(c) (general members of the Mental Health Tribunal for Scotland), for “entered on the British Psychological Society’s register of chartered psychologists” substitute “registered with the Health Professions Council”.

**Amendment of the Mental Health (Advance Statements) (Prescribed Class of Persons) (Scotland) (No.2) Regulations 2004**

12. In regulation 2 of the Mental Health (Advance Statements) (Prescribed Class of Persons) (Scotland) (No.2) Regulations 2004(d) (prescribed persons), omit paragraph (a) and in paragraph (c) after “occupational therapists” insert “and registered psychologists”.

**Amendment of the Mental Health (Patient Representation) (Prescribed Persons) (Scotland) (No.2) Regulations 2004**

13. In regulation 2 of the Mental Health (Patient Representation) (Prescribed Persons) (Scotland) (No.2) Regulations 2004(e) (prescribed persons), omit paragraph (a) and in paragraph (c) after “occupational therapists” insert “and registered psychologists”.

**Amendment of the Regulation of Care (Social Service Workers) (Scotland) Order 2005**

14. In article 3 of the Regulation of Care (Social Service Workers) (Scotland) Order 2005(f) (excluded persons), omit paragraph (2).

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(a) S.S.I. 2003/231.  
(b) Scheduled to S.I. 2003/1579.  
(c) S.S.I. 2004/375.  
(d) S.S.I. 2004/429.  
(e) S.S.I. 2004/430.  
(f) S.S.I. 2005/318.

### **Amendment of the Scottish Parliament (Elections etc.) Order 2007**

15. In the Scottish Parliament (Elections etc.) Order 2007(a), in Schedule 3 (absent voting), in paragraph 3(2), omit paragraph (i).

### **Amendment of the National Assembly for Wales (Representation of the People) Order 2007**

16. In the National Assembly for Wales (Representation of the People) Order 2007(b), in Schedule 1 (absent voting at Assembly elections), in paragraph 4(2), omit paragraph (i).

### **Amendment of the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Regulations 2007**

17. In regulation 8 of the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Regulations 2007(c) (additional requirements for applications for a proxy vote for a particular or indefinite period on grounds of blindness or other disability), in paragraph (2), omit paragraph (i).

### **Amendment of the European Communities (Recognition of Professional Qualifications) Regulations 2007**

18. In the European Communities (Recognition of Professional Qualifications) Regulations 2007(d)—

- (a) in Schedule 1 (regulated professions), in Part 1 (professions regulated by law or public authority)—
  - (i) in the column headed “profession”—
    - (aa) omit “clinical psychologist employed in the National Health Service”, and
    - (bb) after “Radiographer” insert “Registered psychologist (that is to say, a clinical psychologist, counselling psychologist, educational psychologist, forensic psychologist, health psychologist, occupational psychologist or sport and exercise psychologist)”, and
  - (ii) in the column headed “Competent Authority” omit “British Psychological Society”;
- (b) in Schedule 1, in Part 2 (professions regulated by professional bodies incorporated by Royal Charter)—
  - (i) in the column headed “Professional Title (where applicable)” omit “Chartered psychologist”,
  - (ii) in the column headed “Designatory Letters” omit “C Psychol”, and
  - (iii) in the column headed “Competent Authority” omit “The British Psychological Society”; and
- (c) in Schedule 2 (regulated professions having public health or safety implications)—
  - (i) omit “Clinical Psychologist (employed in the National Health Service)”, and
  - (ii) after “Registered Gas Installer” insert “Registered psychologist (that is to say, a clinical psychologist, counselling psychologist, educational psychologist, forensic psychologist, health psychologist, occupational psychologist or sport and exercise psychologist)”.

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(a) S.I. 2007/937.  
(b) S.I. 2007/236.  
(c) S.S.I. 2007/170.  
(d) S.I. 2007/2781.

## PART 2

### Amendments relating to barring entries

#### **Amendment of the General Osteopathic Council (Professional Conduct Committee) (Procedure) Rules 2000**

19. After rule 26 of the General Osteopathic Council (Professional Conduct Committee) (Procedure) Rules 2000(a), insert the following rule—

##### **“Cases relating to barring entries**

**26A.**—(1) In cases relating to barring entries, the order of proceedings shall be as follows—

- (a) the Solicitor shall be requested to adduce evidence of any barring entry and its circumstances;
- (b) evidence relating to the barring entry, and of any findings of fact made by the Independent Barring Board or the Scottish Ministers on which that barring entry is based, may be adduced in the form of information—
  - (i) provided by the Secretary of State under the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007,
  - (ii) provided by the Scottish Ministers under the Protection of Vulnerable Groups (Scotland) Act 2007;
- (c) if in respect of any barring entry, no evidence is adduced that the barring entry has been made, the chair shall announce that the barring entry has not been proved;
- (d) the chair shall ask the osteopath (“O”) whether O accepts each barring entry of which evidence is adduced, and shall announce that any such accepted barring entry has been proved;
- (e) in respect of any barring entry not so accepted, O or O’s representative may address the Committee and adduce both oral and documentary evidence to show that O was not the person in respect of whom the barring entry was made;
- (f) thereafter the Solicitor may, with the Committee’s leave, seek to rebut any evidence of O by adducing evidence to that effect;
- (g) the Solicitor and then O or O’s representative may address the Committee.

(2) On conclusion of the proceedings in paragraph (1), the Committee shall consider each barring entry alleged in the complaint, other than those accepted or announced not to be proved, and shall determine whether or not each such barring entry is proved and then announce its determination.

(3) Where the Committee have announced that a barring entry has been proved or where a barring entry has been accepted, the chair shall—

- (a) invite the Solicitor to address the Committee and adduce any further evidence as to character and previous history of O and the circumstances leading to the barring entry, and for these purposes—
  - (i) a document from the Independent Barring Board, authenticated in whatever way the General Council may approve and adduced under paragraph (1)(a), that provides a statement of the findings of fact made by the Board that led to the barring entry shall be conclusive evidence of the facts found proved by the Board, and

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(a) Scheduled to S.I. 2000/241.

- (ii) a document from the Scottish Ministers, authenticated in whatever way the General Council may approve and adduced under paragraph (1)(a), that provides a statement of the findings of fact made by the Scottish Ministers that led to the barring entry shall be conclusive evidence of the facts found proved by the Scottish Ministers;
  - (b) invite O or O's representative to address the Committee by way of mitigation and adduce any further evidence as to the matters referred to in sub-paragraph (a).
- (4) The Solicitor and O or O's representative, shall, if appropriate, be invited to address the Committee on whether the barring entry in question has any material relevance to the fitness of the osteopath concerned to practise osteopathy.
- (5) The Committee shall then proceed in accordance with rules 35 to 39.
- (6) For the purposes of this rule, "barring entry" means—
- (a) the Independent Barring Board including a person in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007); or
  - (b) the Scottish Ministers including a person in the children's list or the adults' list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007)."

**Amendment of the General Chiropractic Council (Professional Conduct Committee) Rules 2000**

**20.** In rule 7 of the General Chiropractic Council (Professional Conduct Committee) Rules 2000(a) (evidence), after paragraph (1) insert the following paragraphs—

“(1A) Where it is alleged that the respondent has been included in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007) by the Independent Barring Board—

- (a) information provided by the Secretary of State under the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 that attests to that inclusion shall be conclusive evidence of that inclusion, unless the respondent can prove that they are not the person referred to in the information provided; and
- (b) a document from the Board, authenticated in whatever way the General Council may approve, that provides a statement of the findings of fact made by the Board that led to that inclusion shall be conclusive evidence of the facts found proved by the Board.

(1B) Where it is alleged that the Scottish Ministers have included the respondent in the children's list or the adults' list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007)—

- (a) information provided by the Scottish Ministers under the Protection of Vulnerable Groups (Scotland) Act 2007 that attests to that inclusion shall be conclusive evidence of that inclusion, unless the respondent can prove that they are not the person referred to in the information provided; and
- (b) a document from the Scottish Ministers, authenticated in whatever way the General Council may approve, that provides a statement of the findings of fact made by the Scottish Ministers that led to that inclusion shall be conclusive evidence of the facts found proved by the Scottish Ministers.”

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(a) Scheduled to S.I. 2000/3290.

**Amendment of the Health Professions Council (Conduct and Competence Committee) (Procedure) Rules 2003**

21. In rule 10 of the Health Professions Council (Conduct and Competence Committee) (Procedure) Rules 2003(a), in paragraph (1), after sub-paragraph (d) insert the following sub-paragraphs—

- “(da) where it is alleged that the health professional has been included in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007) by the Independent Barring Board—
  - (i) information provided by the Secretary of State under the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 that attests to that inclusion shall be conclusive evidence of that inclusion, unless the health professional can prove that they are not the person referred to in the information provided, and
  - (ii) a document from the Board, authenticated in whatever way the Council may approve, that provides a statement of the findings of fact made by the Board that led to that inclusion shall be conclusive evidence of the facts found proved by the Board;
- (db) where it is alleged that the Scottish Ministers have included the health professional in the children’s list or the adults’ list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007)—
  - (i) information provided by the Scottish Ministers under the Protection of Vulnerable Groups (Scotland) Act 2007 that attests to that inclusion shall be conclusive evidence of that inclusion, unless the health professional can prove that they are not the person referred to in the information provided, and
  - (ii) a document from the Scottish Ministers, authenticated in whatever way the Council may approve, that provides a statement of the findings of fact made by the Scottish Ministers that led to that inclusion shall be conclusive evidence of the facts found proved by the Scottish Ministers;”.

**Amendment of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004**

22. In the Nursing and Midwifery Council (Fitness to Practise) Rules 2004(b), in rule 31 (evidence), after paragraph (3) insert the following paragraphs—

- “(3A) Where it is alleged that a registrant has been included in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007) by the Independent Barring Board—
  - (a) information provided by the Secretary of State under the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 that attests to that inclusion shall be conclusive proof of that inclusion, unless the registrant can prove that they are not the person referred to in the information provided; and
  - (b) a document from the Board, authenticated in whatever way the Council may approve, that provides a statement of the findings of fact made by the Board that led to that inclusion shall be conclusive proof of the facts found proved by the Board.
- (3B) Where it is alleged that the Scottish Ministers have included a registrant in the children’s list or the adults’ list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007)—

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(a) Scheduled to S.I. 2003/1575.  
(b) Scheduled to S.I. 2004/1761.

- (a) information provided by the Scottish Ministers under the Protection of Vulnerable Groups (Scotland) Act 2007 that attests to that inclusion shall be conclusive proof of that inclusion, unless the registrant can prove that they are not the person referred to in the information provided; and
- (b) a document from the Scottish Ministers, authenticated in whatever way the Council may approve, that provides a statement of the findings of fact made by the Scottish Ministers that led to that inclusion shall be conclusive proof of the facts found proved by the Scottish Ministers.”

#### **Amendment of the General Medical Council (Fitness to Practise) Rules 2004**

**23.** In the General Medical Council (Fitness to Practise) Rules 2004(a)—

- (a) in rule 5(2) (which relates to functions of the Registrar in certain cases), for “or (e)” substitute “, (e), (f) or (g)”; and

- (b) in rule 34 (evidence), after paragraph (5) insert the following paragraphs—

“(5A) Where it is alleged that a practitioner has been included in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007) by the Independent Barring Board—

- (a) information provided by the Secretary of State under the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 that attests to that inclusion shall be conclusive evidence of that inclusion, unless the practitioner can prove that they are not the person referred to in the information provided; and
- (b) a document from the Board, authenticated in whatever way the General Council may approve, that provides a statement of the findings of fact made by the Board that led to that inclusion shall be conclusive evidence of the facts found proved by the Board.

(5B) Where it is alleged that the Scottish Ministers have included a practitioner in the children’s list or the adults’ list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007)—

- (a) information provided by the Scottish Ministers under the Protection of Vulnerable Groups (Scotland) Act 2007 that attests to that inclusion shall be conclusive evidence of that inclusion, unless the practitioner can prove that they are not the person referred to in the information provided; and
- (b) a document from the Scottish Ministers, authenticated in whatever way the General Council may approve, that provides a statement of the findings of fact made by the Scottish Ministers that led to that inclusion shall be conclusive evidence of the facts found proved by the Scottish Ministers.”

#### **Amendment of the General Optical Council (Fitness to Practise) Rules 2005**

**24.** After rule 38 of the General Optical Council (Fitness to Practise) Rules 2005(b), insert the following rule—

##### **“Evidence relating to barring entries**

**38A.**—(1) Where it is alleged that a registrant has been included in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007) by the Independent Barring Board—

- (a) information provided by the Secretary of State under the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order

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(a) Scheduled to S.I. 2004/2608.  
 (b) Scheduled to S.I. 2005/1475.

2007 that attests to that inclusion shall be conclusive evidence of that inclusion, unless the registrant can prove that they are not the person referred to in the information provided; and

- (b) a document from the Board, authenticated in whatever way the Council may approve, that provides a statement of the findings of fact made by the Board that led to that inclusion shall be conclusive evidence of the facts found proved by the Board.

(2) Where it is alleged that the Scottish Ministers have included a registrant in the children's list or the adults' list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007)—

- (a) information provided by the Scottish Ministers under the Protection of Vulnerable Groups (Scotland) Act 2007 that attests to that inclusion shall be conclusive evidence of that inclusion, unless the registrant can prove that they are not the person referred to in the information provided; and
- (b) a document from the Scottish Ministers, authenticated in whatever way the Council may approve, that provides a statement of the findings of fact made by the Scottish Ministers that led to that inclusion shall be conclusive evidence of the facts found proved by the Scottish Ministers."

#### **Amendment of the General Dental Council (Fitness to Practise) Rules 2006**

**25.** In rule 57 of the General Dental Council (Fitness to Practise) Rules 2006(a) (evidence)—

- (a) in paragraph (4), before "It shall be" insert "Except as otherwise provided by this rule,;" and
- (b) after paragraph (6) insert the following paragraphs—

"(6A) Where it is alleged that a respondent has been included in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007) by the Independent Barring Board—

- (a) information provided by the Secretary of State under the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 that attests to that inclusion shall be conclusive proof of that inclusion, unless the respondent can prove that they are not the person referred to in the information provided; and
- (b) a document from the Board, authenticated in whatever way the Council may approve, that provides a statement of the findings of fact made by the Board that led to that inclusion shall be conclusive proof of the facts found proved by the Board.

(6B) Where it is alleged that the Scottish Ministers have included a respondent in the children's list or the adults' list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007)—

- (a) information provided by the Scottish Ministers under the Protection of Vulnerable Groups (Scotland) Act 2007 that attests to that inclusion shall be conclusive proof of that inclusion, unless the respondent can prove that they are not the person referred to in the information provided; and
- (b) a document from the Scottish Ministers, authenticated in whatever way the Council may approve, that provides a statement of the findings of fact made by the Scottish Ministers that led to that inclusion shall be conclusive proof of the facts found proved by the Scottish Ministers."

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(a) Scheduled to S.I. 2006/1663.

### **Amendment of the Royal Pharmaceutical Society of Great Britain (Registration) Rules 2007**

26. In the Royal Pharmaceutical Society of Great Britain (Registration) Rules 2007(a), in rule 6 (application for registration in the register of pharmacists) in paragraph (3)(g) (in both places) for “48(1)(e) to (k)” substitute “48(1)(e) to (m)”.

### **Amendment of the Royal Pharmaceutical Society of Great Britain (Fitness to Practise and Disqualification etc.) Rules 2007**

27. In the Royal Pharmaceutical Society of Great Britain (Fitness to Practise and Disqualification etc.) Rules 2007(b), in rule 30 (evidence), after paragraph (5) insert the following paragraphs—

“(5A) Where it is alleged that an applicant or registrant has been included in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007) by the Independent Barring Board—

- (a) information provided by the Secretary of State under the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 that attests to that inclusion shall be conclusive proof of that inclusion, unless the applicant or registrant concerned can prove that they are not the person referred to in the information provided; and
- (b) a document from the Board, authenticated in whatever way the Society may approve, that provides a statement of the findings of fact made by the Board that led to that inclusion shall be conclusive proof of the facts found proved by the Board.

(5B) Where it is alleged that the Scottish Ministers have included an applicant or registrant in the children’s list or the adults’ list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007)—

- (a) information provided by the Scottish Ministers under the Protection of Vulnerable Groups (Scotland) Act 2007 that attests to that inclusion shall be conclusive proof of that inclusion, unless the applicant or registrant concerned can prove that they are not the person referred to in the information provided; and
- (b) a document from the Scottish Ministers, authenticated in whatever way the Society may approve, that provides a statement of the findings of fact made by the Scottish Ministers that led to that inclusion shall be conclusive proof of the facts found proved by the Scottish Ministers.”

## **PART 3**

### **Amendments relating to the introduction of statutory regulation of pharmacy technicians**

### **Amendment of the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003**

28. In Schedule 4 to the Rehabilitation of Offenders Act 1974 (Exclusions and Exceptions) (Scotland) Order 2003(c) (excepted professions, offices, employments, and occupations)—

- (a) in Part 1 (professions), after paragraph 8 insert the following paragraph—

“8A. Registered pharmacy technician.”; and

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(a) Scheduled to S.I. 2007/441.

(b) Scheduled to S.I. 2007/442.

(c) S.S.I. 2003/231; paragraph 8 in Part 1 was substituted by, and the definition of “registered pharmacist” in Part 4 was inserted by, S.I. 2007/3101.

- (b) in Part 4 (interpretation), after the definition of “registered pharmacist” insert the following definition—

““registered pharmacy technician” means a person who is registered in the register maintained under article 21(1) of the Pharmacists and Pharmacy Technicians Order 2007;”.

#### **Amendment of the Gender Recognition (Disclosure of Information) (Scotland) Order 2005**

**29.** In article 5 of the Gender Recognition (Disclosure of Information) (Scotland) Order 2005(a) (disclosure for medical purposes), in paragraph (2)(b)(iii), for “a pharmacist registered in Part 1 or 3 of the register maintained under article 10(1) of” substitute “a pharmacist or pharmacy technician registered in Part 1 or 3 of one of the registers maintained under articles 10(1) and 21(1) of”.

#### **Amendment of the Royal Pharmaceutical Society of Great Britain (Registration) Rules 2007**

**30.** In the Royal Pharmaceutical Society of Great Britain (Registration) Rules 2007(b)—

- (a) in rule 2 (interpretation), omit paragraph (2); and  
(b) after rule 6, insert the following rule—

##### **“Applications for registration in the Register of Pharmacy Technicians**

**6A.—**(1) Subject to the following provisions of this rule, applicants for registration in Part 1 or 2 of the Register of Pharmacy Technicians shall apply using the relevant application form, which shall be in such form as the Council shall determine from time to time.

(2) The application form shall—

- (a) require the applicant—
- (i) to specify the part of the register in which registration is sought, and if the applicant wishes to be registered in Part 2, to give the undertaking referred to in article 22(2) of the Order,
  - (ii) to provide the applicant’s full home address and contact details (including a telephone number and electronic mail address, where possible),
  - (iii) to declare in terms that the applicant—
    - (aa) agrees, upon registration with the Society, to adhere to the standards, and
    - (bb) understands that, in the event that the applicant is found to have given false or misleading information in connection with the applicant’s application for registration, the applicant may be removed from the register,
  - (iv) to provide any necessary supporting documentation, as mentioned in paragraph (3),
  - (v) to sign and date the application, and
  - (vi) in the case of persons who have qualified within Great Britain, to have the form countersigned and dated by a pharmacist who is registered in Part 1 of the Register of Pharmacists and who is in good standing with the Society;
- (b) include a demand that the applicant pay any relevant prescribed fee; and  
(c) request the applicant to provide information relating to the applicant’s gender, ethnicity and any disability for monitoring purposes.

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(a) S.S.I. 2005/125.

(b) Scheduled to S.I. 2007/441.

(3) A person applying for registration in Part 1 or 2 of the Register of Pharmacy Technicians shall provide to the Registrar, together with the person's application form—

- (a) evidence of the person's identity in the form of—
  - (i) the person's passport (or a true copy of it, certified by a notary or warranted to be a true copy by a registered pharmacist) or another document which is considered acceptable by the Registrar as proof of identity, and
  - (ii) a photograph which is signed and dated by a legal or health care professional, justice of the peace or person of standing in the community, who has known the person for at least two years and who certifies that the photograph is a true likeness of the person;
- (b) where the person wishes to use a registered name which is different to the name given on the evidence of identity—
  - (i) the relevant marriage certificate or certificate of civil partnership (or a true copy of it, certified by a notary or warranted to be a true copy by a registered pharmacist),
  - (ii) the relevant certificate of change of name (or a true copy of it, certified by a notary or warranted to be a true copy by a registered pharmacist), or
  - (iii) evidence of the change of name in the form of a statutory declaration;
- (c) evidence of the person's date of birth in the form of—
  - (i) the person's passport (or a true copy of it, certified by a notary or warranted to be a true copy by a registered pharmacist) or the other document considered acceptable under paragraph (3)(a)(i), and
  - (ii) either—
    - (aa) the person's birth certificate (or a true copy of it, certified by a notary or warranted to be a true copy by a registered pharmacist), or
    - (bb) a statutory declaration;
- (d) sufficient evidence (in the opinion of the Registrar) that the person is appropriately qualified;
- (e) where the person is an exempt person who is an applicant for the purposes of Chapter 1 of Part 3 of the General Systems Regulations ("E"), sufficient evidence (in the opinion of the Registrar) of that fact;
- (f) in the case of E, sufficient information (in the opinion of the Registrar) about the person's knowledge and standards of practice, wherever acquired, to determine whether the person should be registered or be subject to a period of adaptation or aptitude test;
- (g) as regards the good physical and mental health of the person—
  - (i) in the case of E—
    - (aa) a document (which, if it is not in English, the Registrar may require to be translated by a professional translator acceptable to the Registrar), issued by the competent authorities in E's attesting State no more than three months prior to the date on which it is presented to the Registrar, which attests to E's good physical and mental health and which is required of a person who wishes to practise as a pharmacy technician in E's attesting State, or
    - (bb) if no such document is required, a certificate (which, if it is not in English, the Registrar may require to be translated by a professional translator acceptable to the Registrar) issued by the competent authorities in E's attesting State no more than three months prior to the date on which it is presented to the Registrar, which attests to E's good physical and mental health, or

- (ii) in the case of any other person (or if E chooses to attest to their physical or mental health in this way) a self declaration, in the form determined by the Council from time to time, of the person's good physical and mental health, which is signed and dated by the person;
- (h) as regards the fitness to practise of the person, apart from their physical or mental health, in the case of E—
  - (i) any standard documentation (which, if it is not in English, the Registrar may require to be translated by a professional translator acceptable to the Registrar) that is made available by the competent authorities of E's attesting State to persons wishing to take up the profession of pharmacy technician in another State in order to demonstrate that E would be considered fit to practise a regulated profession in E's attesting State, and
  - (ii) if the competent authorities of E's attesting State do not make available certificates attesting to a person's good character or repute to persons wishing to take up the profession of pharmacy technician in another State, a declaration on oath or solemn declaration made by E before a competent judicial or administrative authority, notary or qualified professional body in E's attesting State attesting to E's good character or repute (which, if it is not in English, the Registrar may require to be translated by a professional translator acceptable to the Registrar),

which must be dated no more than three months prior to the date on which it is presented to the Registrar;

- (i) a self declaration in respect of the person's fitness to practise, in the form determined by the Council from time to time, which is signed and dated by the person;
  - (j) except in the case of E, the additional information or documentation, where applicable, set out in paragraph (4); and
  - (k) such other documents, information or evidence as the Registrar may reasonably require for the purposes of verifying the information in, or determining, the application.
- (4) The additional information or documentation referred to in paragraph (3)(j) is—
- (a) a completed and signed application form and authorisation for the Registrar to obtain a certificate of enhanced disclosure from the Criminal Records Bureau;
  - (b) where the applicant has previously obtained a certificate of standard or enhanced disclosure from the Criminal Records Bureau for the purpose of applying to be entered on a list of performers or providers of pharmaceutical services as part of the health service, a true copy (certified by a notary or warranted to be a true copy by a registered pharmacist) of that certificate;
  - (c) where the applicant has been the subject of a determination by a regulatory body that the applicant's fitness to practise is impaired, or a determination to the same effect, details of any investigations, the proceedings and the outcome;
  - (d) in the case of an applicant who has been registered and has practised as a pharmacist or pharmacy technician outside Great Britain, a certificate of good standing or current professional status issued no more than six months prior to the date of the application by the appropriate authority of every country in which the applicant has been registered and has practised as a pharmacist or pharmacy technician within the five years immediately preceding the date of the application.

(5) Before deciding whether or not an applicant's fitness to practise is impaired for reasons other than adverse physical or mental health, the Registrar may seek the advice of the Disciplinary Committee in respect of the application.

(6) In making a decision about an applicant's good character, the Registrar shall have regard to the matters set out in the Society's Good Character Assessment Framework published by the Council under article 45(1) of the Order.

(7) Before deciding whether or not an applicant's fitness to practise is impaired because of adverse physical or mental health, the Registrar may seek the advice of the Health Committee in respect of the application.

(8) The Registrar shall refuse the application if the applicant does not pay the relevant prescribed fee.

(9) For the purposes of this rule, "attesting State" means the relevant European State in which E obtained their qualification as a pharmacy technician or, if different, the relevant European State from which E comes to Great Britain."; and

- (c) in rule 12 (applications for restoration within twelve months of specified removals from the register), in paragraph (1)(a), after "article 17(2)(b)" insert ", 28(2)(b)".

#### **Amendment of the Royal Pharmaceutical Society of Great Britain (Fitness to Practise and Disqualification etc.) Rules 2007**

**31.** In the Royal Pharmaceutical Society of Great Britain (Fitness to Practise and Disqualification etc.) Rules 2007(a), in rule 2 (interpretation), omit paragraph (3).

#### **Amendment of the Royal Pharmaceutical Society of Great Britain (Fitness to Practise and Registration Appeals Committees and their Advisers) Rules 2007**

**32.** In the Royal Pharmaceutical Society of Great Britain (Fitness to Practise and Registration Appeals Committees and their Advisers) Rules 2007(b)—

- (a) in rule 2 (interpretation), omit paragraph (2); and
- (b) in rule 5 (appointments group), in paragraph (2)—
- (i) in sub-paragraph (c), before "pharmacists" insert "registered", and
- (ii) in sub-paragraph (d), before "pharmacy technician" insert "registered".

#### **Amendment of the European Communities (Recognition of Professional Qualifications) Regulations 2007**

**33.** In the European Communities (Recognition of Professional Qualifications) Regulations 2007(c)—

- (a) in Schedule 1 (regulated professions), in Part 1 (professions regulated by law or public authority)—
- (i) in the column headed "profession", after the entry for "Patent Attorney and Patent Agent" insert a new entry "Pharmacy Technician in Great Britain", and
- (ii) in the column headed "Competent Authority", opposite "Pharmacy Technician in Great Britain" insert a new entry "The Royal Pharmaceutical Society of Great Britain"; and
- (b) in Schedule 2 (regulated professions having public health or safety implications), after "Paramedic" insert "Pharmacy Technician in Great Britain".

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(a) Scheduled to S.I. 2007/442.  
(b) Scheduled to S.I. 2007/561.  
(c) S.I. 2007/2781.

## PART 4

### Revocations relating to constitutional changes to the General Dental Council

#### **Revocation of the General Dental Council (Constitution) Order of Council 2006**

- 34.**—(1) The General Dental Council (Constitution) Order of Council 2006(a) is revoked.
- (2) The General Dental Council (Constitution) (Amendment) Order of Council 2007(b) is revoked.
- (3) The General Dental Council (Constitution) (Amendment) Order of Council 2008(c) is revoked.

#### **Revocation of the General Dental Council (Constitution of Committees) Order of Council 2006**

- 35.** The General Dental Council (Constitution of Committees) Order of Council 2006(d) is revoked.

## PART 5

### Revocations relating to constitutional changes to the Health Professions Council

#### **Revocation of the Health Professions Council’s Practice Committees Constitution Rules**

- 36.**—(1) The Health Professions Council (Practice Committees) (Constitution) Rules Order of Council 2003(e), and the Rules approved by that Order(f), are revoked.
- (2) Rule 3 of the Health Professions Council (Practice Committees and Registration) (Amendment) Rules 2005(g) is revoked.

## PART 6

### Miscellaneous updating and consequential amendments

#### **Amendment of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975**

- 37.** In Schedule 1 to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975(h) (excepted professions, offices, employments, work and occupations)—
- (a) in Part 1 (professions), for paragraph 4 substitute the following paragraph—
- “4. Dentist, registered dental care professional.”; and
- (b) in Part 4 (interpretation), in the appropriate place in the alphabetical order insert the following definition—
- ““registered dental care professional” has the meaning given by section 53 of the Dentists Act 1984;”.

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(a) S.I. 2006/1666.  
(b) S.I. 2007/3172.  
(c) S.I. 2008/3238.  
(d) S.I. 2006/1665.  
(e) S.I. 2003/1209.  
(f) These Rules were amended by S.I. 2005/1625.  
(g) S.I. 2005/1625.  
(h) S.I. 1975/1023; the relevant amending instrument is S.I. 2002/441.

## **Amendment of the Nursing and Midwifery Order 2001**

**38.** In the Nursing and Midwifery Order 2001(a)—

- (a) in article 5 (establishment and maintenance of register), in paragraph (3)(a), omit “the Conduct and Competence Committee in addition to”;
- (b) in article 6A(b) (temporary annotations with regard to emergencies involving loss of human life or human illness etc.), in paragraph (5), for “subsection (2)” substitute “subsection (2)(a) and (b)”;
- (c) in article 21 (Council’s functions in respect of fitness to practise, ethics and other matters), in paragraph (3), omit “standards or” and “the Conduct and Competence Committee in addition to”;
- (d) in article 25 (Council’s power to require disclosure of information)—
  - (i) in paragraph (1), for “them in” substitute “the Council or any of its Practice Committees in” and for “a Practice Committee” substitute “the Council”, and
  - (ii) in paragraph (5), for “the Practice Committee in respect of the allegation with which it is dealing” substitute “a Practice Committee with regard to the person concerned”;
- (e) in article 27 (the Conduct and Competence Committee), omit paragraph (a);
- (f) in article 37(c) (appeals against Registrar’s decisions), in paragraph (5)(c), for paragraph (ii) substitute the following paragraph—
  - “(ii) a person who—
    - (aa) is not and never has been a registered nurse or midwife (and article 5(5) does not apply for these purposes),
    - (bb) is not and never has been a registered medical practitioner, and
    - (cc) does not hold qualifications which would entitle them to apply for registration as a registered nurse, a registered midwife or a registered medical practitioner; and”;
- (g) in Schedule 1(d) (the Nursing and Midwifery Council and committees)—
  - (i) in paragraph 1B(1)(d), after “term of office” insert “, and the order may provide that the term is to be determined by whoever makes the appointment as chair, on appointment”, and
  - (ii) in paragraph 17, after sub-paragraph (1) insert the following sub-paragraph—

“(1A) Where the rules provide for one or more panels of members of a Practice Committee to perform functions of the Committee, the provision required by sub-paragraph (1)(d) includes provision with regard to the quorum at meetings of those panels.”, and
  - (iii) in paragraph 18, omit sub-paragraphs (4), (9) and (11).

## **Amendment of the Representation of the People (England and Wales) Regulations 2001**

**39.** In regulation 53 of the Representation of the People (England and Wales) Regulations 2001 (additional requirements for applications for a proxy vote for a definite or indefinite period on grounds of blindness or any other disability), in paragraph (2), for sub-paragraph (e) substitute the following sub-paragraph—

- “(e) a registered pharmacist as defined in article 3(1) of the Pharmacists and Pharmacy Technicians Order 2007;”.

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(a) S.I. 2002/253.

(b) Inserted by S.I. 2008/1485.

(c) There are no relevant amending instruments.

(d) Relevant amendments were made by S.I. 2008/1485.

### **Amendment of the Representation of the People (Scotland) Regulations 2001**

40. In regulation 53 of the Representation of the People (Scotland) Regulations 2001 (additional requirements for applications for a proxy vote for a particular or indefinite period on grounds of blindness or any other disability), in paragraph (2), for sub-paragraph (e) substitute the following sub-paragraph—

“(e) a registered pharmacist as defined in article 3(1) of the Pharmacists and Pharmacy Technicians Order 2007;”.

### **Amendment of the Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules 2004**

41. In Rule 25 of the Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules 2004(a) (consideration by Appeal Panel), in paragraph (3), for sub-paragraph (b) substitute the following sub-paragraph—

“(b) a person who—

- (i) is not and never has been a registered nurse or midwife (and article 5(5) of the Order does not apply for these purposes),
- (ii) is not and never has been a registered medical practitioner, and
- (iii) does not hold qualifications which would entitle them to apply for registration as a registered nurse, a registered midwife or a registered medical practitioner; and”.

### **Amendment of the National Assembly for Wales (Representation of the People) Order 2007**

42. In the National Assembly for Wales (Representation of the People) Order 2007, in Schedule 1 (absent voting at Assembly elections), in paragraph 4(2), for paragraph (e) substitute the following paragraph—

“(e) a registered pharmacist as defined in article 3(1) of the Pharmacists and Pharmacy Technicians Order 2007;”.

### **Amendment of the Representation of the People (Absent Voting at Local Government Elections) (Scotland) Regulations 2007**

43. In regulation 8 of the Representation of the People (Absent voting at Local Government Elections) (Scotland) Regulations 2007 (additional requirements for applications for a proxy vote for a particular or indefinite period on grounds of blindness or other disability), in paragraph (2), for sub-paragraph (e) substitute the following sub-paragraph—

“(e) a registered pharmacist as defined in article 3(1) of the Pharmacists and Pharmacy Technicians Order 2007;”.

### **Amendment of the Scottish Parliament (Elections etc. Order) 2007**

44. In the Scottish Parliament (Elections etc. Order) 2007, in Schedule 3 (absent voting), in paragraph 3(2), for paragraph (e) substitute the following paragraph—

“(e) a registered pharmacist as defined in article 3(1) of the Pharmacists and Pharmacy Technicians Order 2007;”.

### **Amendment of the Royal Pharmaceutical Society of Great Britain (Registration) Rules 2007**

45. In the Royal Pharmaceutical Society of Great Britain (Registration) Rules 2007, in rule 6 (application for registration in the register of pharmacists)—

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(a) Scheduled to S.I. 2004/1767.

- (a) in paragraph (3)—
  - (i) in sub-paragraph (b)(i), after “civil partnership” insert “(or a true copy of it, certified by a notary)”,
  - (ii) in sub-paragraph (b)(ii), after “change of name” insert “(or a true copy of it, certified by a notary)”,
  - (iii) in sub-paragraph (c)(ii)(aa) for “certified true copy of it” substitute “true copy of it, certified by a notary”, and
  - (iv) in sub-paragraph (d)(ii), for “the Registrar” substitute “a notary”; and
- (b) in paragraph (4)(b), after “certified” insert “(by a notary)”.

## SCHEDULE 5

Article 4(2)

### Amendments to Acts of Parliament, Acts of the Scottish Parliament and Northern Ireland legislation

#### PART 1

##### Amendments to Acts of Parliament

###### **Amendment of the Osteopaths Act 1993**

1. In the Schedule to the Osteopaths Act 1993(a) (the General Council and Committees)—
  - (a) after paragraph 30 (which relates to the constitution of the Investigating Committee) insert the following paragraph—
 

“**30A.** Where rules under paragraph 30 provide for one or more panels of members of the Investigating Committee to perform functions of the Committee, the provision required by paragraph 30(c) includes provision with regard to the quorum at meetings of those panels.”;
  - (b) after paragraph 34 (which relates to the constitution of the Professional Conduct Committee) insert the following paragraph—
 

“**34A.** Where rules under paragraph 34 provide for one or more panels of members of the Professional Conduct Committee to perform functions of the Committee, the provision required by paragraph 34(c) includes provision with regard to the quorum at meetings of those panels.”; and
  - (c) after paragraph 38 (which relates to the constitution of the Health Committee) insert the following paragraph—
 

“**38A.** Where rules under paragraph 38 provide for one or more panels of members of the Health Committee to perform functions of the Committee, the provision required by paragraph 38(c) includes provision with regard to the quorum at meetings of those panels.”

###### **Amendment of the Chiropractors Act 1994**

2. In Schedule 1 to the Chiropractors Act 1994(b) (the General Council and Committees)—
  - (a) after paragraph 30 (which relates to the constitution of the Investigating Committee) insert the following paragraph—

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(a) Paragraphs 30, 34 and 38 of the Schedule are substituted by S.I. 2008/1774.  
 (b) Paragraphs 30, 34 and 38 of Schedule 1 are substituted by S.I. 2008/1774.

“**30A.** Where rules under paragraph 30 provide for one or more panels of members of the Investigating Committee to perform functions of the Committee, the provision required by paragraph 30(c) includes provision with regard to the quorum at meetings of those panels.”;

- (b) after paragraph 34 (which relates to the constitution of the Professional Conduct Committee) insert the following paragraph—

“**34A.** Where rules under paragraph 34 provide for one or more panels of members of the Professional Conduct Committee to perform functions of the Committee, the provision required by paragraph 34(c) includes provision with regard to the quorum at meetings of those panels.”; and

- (c) after paragraph 38 (which relates to the constitution of the Health Committee) insert the following paragraph—

“**38A.** Where rules under paragraph 38 provide for one or more panels of members of the Health Committee to perform functions of the Committee, the provision required by paragraph 38(c) includes provision with regard to the quorum at meetings of those panels.”

### **Amendment of the Criminal Procedure (Scotland) Act 1995**

- 3.** In the Criminal Procedure (Scotland) Act 1995(a)—

(a) in section 230 (probation orders: requirement of treatment for mental condition), for “chartered psychologist”, at each place where it occurs, substitute “registered psychologist”;

- (b) in section 307 (interpretation), omit the definition of “chartered psychologist” and at the appropriate place insert—

““registered psychologist” means a person registered in the part of the register maintained under the Health Professions Order 2001 which relates to practitioner psychologists;”;

- (c) in Schedule 6 (discharge of and amendment to probation orders), in paragraph 4, for “chartered psychologist” substitute “registered psychologist”.

### **Amendment of the Data Protection Act 1998**

- 4.** In section 69 of the Data Protection Act 1998(b) (meaning of “health professional”), in subsection (1)(i), omit “clinical psychologist or”.

### **Amendment of the Powers of Criminal Courts (Sentencing) Act 2000**

- 5.** In Schedule 6 to the Powers of Criminal Courts (Sentencing) Act 2000(c) (which relates to the requirements that may be included in supervision orders and is to be repealed by the Criminal Justice and Immigration Act 2008(d)), in paragraph 6—

(a) in sub-paragraph (2)(d), for “chartered psychologist” substitute “registered psychologist”; and

- (b) for sub-paragraph (5) substitute the following sub-paragraph—

“(5) In sub-paragraph (2), “registered psychologist” means a person registered in the part of the register maintained under the Health Professions Order 2001 which relates to practitioner psychologists.”.

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(a) 1995 c.46.

(b) 1998 c.29; section 69(1) has been amended by S.I. 2002/253 and 254 and 2003/1590.

(c) 2000 c.6.

(d) 2008 c.4.

### **Amendment of the Income Tax (Earnings and Pensions) Act 2003**

6. In section 343 of the Income Tax (Earnings and Pensions) Act 2003<sup>(a)</sup> (deduction for professional membership fees), in the Table in subsection (2), omit entries 1(a) and 2.

### **Amendment of the Criminal Justice Act 2003**

7. In the Criminal Justice Act 2003<sup>(b)</sup>—

- (a) in the following provisions, for “chartered psychologist”, wherever occurring, substitute “registered psychologist”—
  - (i) subsections (1) and (2)(c) of section 207 (mental health treatment requirement), and
  - (ii) subsections (1) and (3)(a) of section 208 (mental health treatment at place other than that specified in order); and
- (b) for subsection (6) of section 207 substitute the following subsection—

“(6) In this section and section 208, “registered psychologist” means a person registered in the part of the register maintained under the Health Professions Order 2001 which relates to practitioner psychologists.”.

### **Amendment of the Gender Recognition Act 2004**

8. In the Gender Recognition Act 2004<sup>(c)</sup>—

- (a) in subsections (1)(b) and (2)(b) of section 3 (evidence), for “chartered psychologist” substitute “registered psychologist”;
- (b) in section 25 (interpretation), omit the definition of “chartered psychologist” and insert the following definition at the appropriate place—

““registered psychologist” means a person registered in the part of the register maintained under the Health Professions Order 2001 which relates to practitioner psychologists,”;
- (c) in section 27(5) (applications within two years of commencement), in the substituted section 3(1)(b), for “chartered psychologist” substitute “registered psychologist”; and
- (d) in paragraph 1(2)(b) of Schedule 1 (gender recognition panels), for “chartered psychologists” substitute “registered psychologists”.

### **Amendment of the Safeguarding Vulnerable Groups Act 2006**

9.—(1) The Safeguarding Vulnerable Groups Act 2006<sup>(d)</sup> is amended in accordance with this paragraph.

(2) In section 41 (registers: duty to refer)—

- (a) after subsection (4) insert the following subsections—

“(4A) Subsection (4B) applies where the keeper of a relevant register appearing in column 1 of any of entries 2 to 7, 9 and 10 of the table in subsection (7) thinks that the harm test is satisfied.

(4B) Where this subsection applies, the second condition is to be taken as satisfied if—

  - (a) a relevant registration decision has effect in relation to the person and the reason, or one of the reasons, for the relevant registration decision is also the reason, or one of the reasons, for the keeper thinking the harm test is satisfied,

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(a) 2003 c.1.  
(b) 2003 c.44.  
(c) 2004 c.7.  
(d) 2006 c.47.

- (b) the person is under investigation by the body of which the keeper is the registrar in relation to an offence and matters relevant to that investigation are the reason, or one of the reasons, for the keeper thinking that the harm test is satisfied, or
- (c) the body of which the keeper is the registrar holds information about the person which the keeper thinks is likely, in due course—
  - (i) to lead to the making of a relevant registration decision for a reason which is the same as the reason, or one of the reasons, for the keeper thinking that the harm test is satisfied, or
  - (ii) to lead to an investigation in relation to an offence in which matters relevant to that investigation are the reason, or one of the reasons, for the keeper thinking that the harm test is satisfied.

(4C) For the purposes of subsection (4B), a relevant registration decision is a decision, however expressed—

- (a) to refuse to register a person in a relevant register,
  - (b) to remove a person from a relevant register,
  - (c) to suspend a person’s registration in a relevant register (whether for a specified period or pending the outcome of an investigation or the final determination of proceedings),
  - (d) to make a person’s registration in a relevant register conditional on the person’s compliance with specified requirements (whether for a specified period or pending the outcome of an investigation or the final determination of proceedings),
  - (e) to annotate a person’s entry in a relevant register with a record of a formal caution or warning, or
  - (f) to agree with a person undertakings in respect of that person’s future conduct, if those undertakings are recorded in the relevant register.”; and
- (b) in the table in subsection (7)—
- (i) for entry 2 in column 1 (relevant register) substitute the following entry—
 

“The register of pharmacists maintained under Article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007 or the register of pharmacy technicians maintained under Article 21(1) of that Order”,
  - (ii) for the corresponding entry in column 2 (keeper of the register) substitute the following entry—
 

“The registrar appointed under Article 9(1) of that Order”, and
  - (iii) in entry 3, in column 1, for “Either of” substitute “Any of”.

(3) In section 43 (registers: notice of barring and cessation of monitoring), in subsection (6)(a), omit “of entry 1 or 8”.

(4) In section 44 (registers: power to apply for vetting information), in subsection (4)(a), omit “of entry 1 or 8”.

### **Amendment of the Criminal Justice and Immigration Act 2008**

**10.** In Schedule 1 to the Criminal Justice and Immigration Act 2008 (further provisions about youth rehabilitation orders)—

- (a) in paragraph 20—
  - (i) in sub-paragraph (1), for “chartered psychologist” substitute “registered psychologist”,
  - (ii) in sub-paragraph (2)(c), for “chartered psychologist” substitute “registered psychologist”, and
  - (iii) for sub-paragraph (6) substitute the following sub-paragraph—

“(6) In this paragraph and paragraph 21, “registered psychologist” means a person for the time being registered in the part of the register maintained under the Health Professions Order 2001 which relates to practitioner psychologists.”; and

(b) in paragraph 21—

- (i) in sub-paragraph (1), for “chartered psychologist” (in both places) substitute “registered psychologist”, and
- (ii) in sub-paragraph (4)(a), for “chartered psychologist” substitute “registered psychologist”.

## PART 2

### Amendments to Acts of the Scottish Parliament

#### **Amendment of the Criminal Justice (Scotland) Act 2003**

**11.** In section 21 of the Criminal Justice (Scotland) Act 2003<sup>(a)</sup> (sexual and certain other offences: reports), in subsection (2)(b), for “a chartered clinical psychologist or chartered forensic psychologist (that is to say from a person for the time being so described in the British Psychological Society’s Register of Chartered Psychologists)” substitute “a registered psychologist (that is to say from a person for the time being registered in the part of the register maintained under the Health Professions Order 2001 that relates to practitioner psychologists)”.

#### **Amendment of the Protection of Vulnerable Groups (Scotland) Act 2007**

**12.** After section 30 of the Protection of Vulnerable Groups (Scotland) Act 2007<sup>(b)</sup> (notice of listing etc.), insert the following section—

##### **“Notification of health regulatory bodies etc.**

**30A.**—(1) Where section 30(2) applies, Ministers must notify any relevant health regulatory body whom they think it would be appropriate to notify of the fact—

- (a) that the individual has been barred from doing regulated work with children or adults, or, as the case may be,
- (b) that they are considering whether to list the individual.

(2) Where, after considering whether to list an individual, Ministers decide not to do so, they must give notice of that fact to any relevant health regulatory body to whom they gave notice under subsection (1)(b).

(3) A notice given under subsection (1) or (2) may include—

- (a) such details as Ministers think appropriate—
  - (i) where the individual has been barred (by being listed or otherwise), about the circumstances in which the individual was barred,
  - (ii) where they have decided not to list an individual, about the circumstances in which the individual was considered for listing, and
- (b) any other information about the individual which Ministers think appropriate.

(4) Where Ministers remove an individual from a list under section 29, they must give notice of that fact to any relevant health regulatory body whom they think it would be appropriate to notify of that fact (having regard to the period for which the individual has been listed).

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<sup>(a)</sup> 2003 asp 7.  
<sup>(b)</sup> 2007 asp 14.

(5) The following are “relevant health regulatory bodies”—

the General Chiropractic Council  
the General Dental Council  
the General Medical Council  
the General Optical Council  
the General Osteopathic Council  
the Health Professions Council  
the Nursing and Midwifery Council  
the Pharmaceutical Society of Northern Ireland  
the Royal Pharmaceutical Society of Great Britain.”

## PART 3

### Amendment of Northern Ireland legislation

#### **Amendment of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007**

**13.** In Article 46 of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007(a) (registers: power to apply for vetting information), in paragraph (4)(a), omit “of entry 1 or 8”.

#### **EXPLANATORY NOTE**

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

This Order makes amendments to the framework legislation for the regulation of dentists, dental care practitioners, pharmacists, pharmacy technicians and the professions regulated by the Health Professions Council (“HPC”). It also adds a further group of professionals, practitioner psychologists, to the list of professions regulated by the HPC, and makes amendments, for all types of registered health care professionals, relating to the protection of children and vulnerable adults.

#### ***Regulation of practitioner psychologists***

Statutory registration of psychologists is limited to practitioners in one or more of the following branches of psychology: clinical psychology, counselling psychology, educational psychology, forensic psychology, health psychology, occupational psychology, and sport and exercise psychology. Such psychologists, referred to collectively as “practitioner psychologists”, will be entitled to registration with the HPC if they are suitably qualified and their fitness to practise is not impaired. The use of certain protected titles is restricted to registrants. There are transitional provisions, which include provisions allowing for the transfer of some existing members of the British Psychological Society (“BPS”) and the Association of Educational Psychologists (“AEP”) onto the HPC register – although the HPC has a discretion to refuse registration to psychologists whose registration with the BPS or AEP has been suspended, or if they are subject to proceedings which could lead to their suspension or removal from the BPS or AEP register. Psychologists who have never been on the BPS or AEP registers will be able to register under special arrangements that for three years allow existing practitioners to register with the HPC on the basis of their qualifications and experience, even if their qualifications are not amongst those recognised by the

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

HPC, subject to their satisfying a test of competence, where appropriate. There is also some consequential updating of legislation to take account of the new arrangements for statutory regulation (article 5, paragraphs 3, 9(b), 10, 16 and 18 of Schedule 2 and Part 1 of Schedule 4 and paragraphs 3 to 8, 10 and 11 of Schedule 5).

### ***Protection of vulnerable children and adults***

The Protection of Vulnerable Groups (Scotland) Act 2007 is amended so as to require the Scottish Ministers to notify the statutory regulators of health care professions, giving appropriate details, where an individual has been barred from regulated work with children or vulnerable adults, or where they are considering barring someone. The Scottish Ministers are also required to notify health care professions regulators if the individual becomes no longer barred (Paragraph 12 of Schedule 5).

The Safeguarding Vulnerable Groups Act 2006 is amended so as to require the Independent Barring Board (“IBB”) to notify the statutory regulators of health care professions about barring entries and their consideration of them. That Act is also amended to allow those regulators to apply for relevant information from the IBB, and conversely, these regulators are also given duties to refer relevant information to the IBB (paragraph 9 of Schedule 5).

The Dentists Act 1984 (“the 1984 Act”), the Health Professions Order 2001 (“the 2001 Order”) and the Pharmacists and Pharmacy Technicians Order 2007 (“the 2007 Order”) are amended so that the inclusion of a person in a barred list kept by the IBB, or in the children’s list or adults’ list by the Scottish Ministers, becomes a reason for finding that an individual registrant’s fitness to practise is impaired (paragraphs 7 and 8 of Schedule 1, paragraph 5 of Schedule 2 and paragraph 18 of Schedule 3). There are also changes to the fitness to practise rules of a number of statutory regulators of health care professions to ensure that barring entries can be accepted as conclusive proof of the fact that they have been made, and as proof also of the findings that led to the barring entries (Part 2 of Schedule 4).

### ***Other changes relating to the regulation of dentists and dental care professionals***

Schedule 1 contains other amendments to the 1984 Act. The General Dental Council (GDC) is to be re-constituted as provided for by Order of the Privy Council. Instead of a mix of elected registrant and appointed lay members, all its members will be appointed. There are transitional measures allowing the reappointment of the President of the old Council as chair of the new Council. If the Privy Council, which is the body responsible for the appointment of Council members, directs the Appointments Commission to carry out any of its appointment functions, it must consult the GDC first. The GDC is responsible for appointing its own statutory committee members but is given new powers to seek the assistance of other bodies with these appointment functions. The GDC is given powers to regulate the procedures of its committees and sub-committees by standing orders, subject to the requirements of legislation – but subject to such standing orders or to legislation, the committees and sub-committees may regulate their own procedures by standing orders. The new constitutional arrangements also include revised duties of co-operation with stakeholders and new arrangements for the registration and publication of GDC members’ private interests (article 7 and paragraphs 1 to 3, 6, 10, 12 and 13 of Schedule 1, and Part 4 of Schedule 4).

Section 2B of the 1984 Act is revised so that it contains the new arrangements for annual reports. There are three reports that the GDC has to produce: an annual report that includes a description of the arrangements that they have in place to ensure that they adhere to good practice in relation to equality and diversity, a statistical report relating to their fitness to practise functions and a strategic plan. As regards annual accounts, these will now also need to be sent to the Auditor General for Scotland (paragraphs 4 and 5 of Schedule 1).

Section 51 of the 1984 Act is amended so as to clarify the procedural requirements for orders approving fitness to practise rules, and so as to extend the powers of the Scottish Parliament so that all Orders of the Privy Council that approve rules of the GDC that are for the regulation of dental care professionals are subject to the negative resolution procedure in the Scottish Parliament, if they relate to matters within the legislative competence of the Scottish Parliament, as well as to the negative resolution procedure in the United Kingdom Parliament (paragraph 11 of Schedule 1).

***Other changes relating to the regulation of the professions regulated by the Health Professions Council***

Schedule 2 contains further amendments to 2001 Order. The HPC is to be re-constituted as provided for by Order of the Privy Council. Instead of a mix of elected members who are registrants and appointed lay members, all its members will be appointed, and the former system of alternate members for the registrant members is discontinued. There is a transitional provision which allows the existing elected membership of the HPC to remain in place, without the need for further elections, pending the introduction of the new Council. The elections which would otherwise have been held in 2009 are cancelled, and there are transitional arrangements allowing for the reappointment of the President of the old Council as the chair of the new Council. If the Privy Council, which is the body responsible for appointing the membership of the HPC, directs the Appointments Commission to carry out any of the Privy Council's appointment functions, it must consult the HPC first. The constitutional arrangements for the statutory committees of the HPC are revised. These have to be set out in rules, with less of the detail, and fewer committee functions, included in the 2001 Order itself. The HPC's statutory committees are given express powers to regulate their own procedures by standing orders, subject to the requirements of legislation. The HPC will be responsible for appointing the members of these committees, but are given powers to seek the assistance of other bodies with these appointment functions. The new constitutional arrangements also include revised duties of co-operation with stakeholders (article 8, paragraphs 1, 2, 4, 6 to 9(a), 11, 15 and 17 of Schedule 2 and Part 5 of Schedule 4).

Article 42 of the 2001 Order has been revised so that orders of the Privy Council under that Order which are subject to the negative resolution procedure in the United Kingdom Parliament and which are for the regulation of, or approve rules which are for the regulation of, operating department practitioners or practitioner psychologists will also be subject to the negative resolution procedure in the Scottish Parliament (paragraph 12 of Schedule 2).

Article 44 of the 2001 Order is revised so that it contains the new arrangements for annual reports. There are three reports that the HPC has to produce: an annual report that includes a description of the arrangements that it has in place to ensure that it adheres to good practice in relation to equality and diversity, a statistical report relating to its fitness to practise functions and a strategic plan. As regards annual accounts, there is an updating of the reference to the auditors to take account of changes introduced in the Companies Act 2006, and a new requirement to submit accounts to the Auditor General for Scotland (paragraphs 13 and 14 of Schedule 2).

***Other changes relating to the regulation of pharmacists and pharmacy technicians***

Schedule 3 contains further amendments to the 2007 Order. There are new arrangements for the annual reports that the Royal Pharmaceutical Society of Great Britain ("RPSGB") will need to produce. These are: an annual report that includes a description of the arrangements that it has in place to ensure that it adheres to good practice in relation to equality and diversity; and a statistical report relating to its fitness to practise functions. When statutory regulation of pharmacy technicians is introduced, there will be a new requirement to lay these reports before the Scottish Parliament. As regards annual accounts, there is an updating of the reference in the Order to the Society's auditors to take account of changes introduced in the Companies Act 2006. The new constitutional arrangements also include changes to the RPSGB's duties of co-operation with stakeholders (paragraphs 3(b) and (c) and 4 of Schedule 3).

Statutory regulation of pharmacy technicians, which previously applied only in relation to England and Wales, is extended to Scotland, and a number of consequential changes are made in connection with that extension, and in connection with the rule changes necessary to facilitate the opening of the statutory register for pharmacy technicians (paragraphs 1, 3(a), 4, 7 to 10, 15, 16, 17(b), 19(b) and (c), 20 to 23, 24(b) and 26(b) of Schedule 3 and Part 3 of Schedule 4).

Two sets of temporary measures are introduced which relate to circumstances where a major emergency such as one involving the loss of human life or illness has occurred, is occurring or is about to occur. The Registrar of the RPSGB is given powers to register temporarily fit, proper and suitably experienced people to act as pharmacists, and is also given powers to annotate pharmacists' registration entries to give them additional prescribing rights. The Registrar can attach conditions to the registration of those temporarily registered under these arrangements, and may remove both temporary registrations and temporary annotations at any time, without going through the normal fitness to practise procedures. Both temporarily registrations and temporary annotations under these arrangements will cease if the Secretary of State advises the Registrar that the circumstances that gave rise to the need for these emergency measures no longer exist (paragraphs 2, 6, 11, 12, 14 and 17).

Article 69 of the 2007 Order has been revised so that orders of the Privy Council under the Order which are subject to the negative resolution procedure in the United Kingdom Parliament and which are for the regulation of, or approve rules which relate to the regulation of, pharmacy technicians will also be subject to a negative resolution procedure in the Scottish Parliament (paragraph 25 of Schedule 1).

### *Miscellaneous*

Some miscellaneous updating amendments, and consequential amendments arising out of earlier Orders under section 60 of the Health Act 1999, are set out in Part 6 of Schedule 4 and in paragraphs 1 and 2 of Schedule 5. The Order also includes provisions which allow for the making of further transitional, transitory or saving provisions by order of the Privy Council, and in connection with Privy Council procedures (articles 10 and 11).

An impact assessment has been prepared in relation to this Order and is available from the Department of Health, Quarry House, Quarry Hill, Leeds LS2 7UE.

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S.I. 2009 No. 1182 **The Health Care and Associated Professions (Miscellaneous Amendments and Practitioner Psychologists) Order 2009**