DH Department of Health

Health Care and Associated Professions (Miscellaneous Amendments) No 2 Order 2008

Health Care and Associated Professions (Miscellaneous Amendments) No 2 Order 2008

A Paper for Consultation

Prepared by

DH Workforce Directorate

Professional Regulation Team

Stuart Griffiths

DH Information Reader Box			
Policy HR/Workforce Management Planning Clinical	HR / Workforce	Estates Performance IM & T Finance Partnership working	
Document purpose:	Consultation / Discussion		
ROCR ref:		**Gateway ref:**	
Title:	Health Care and Associated Professions (Miscellaneous Amendments) No 2 Order 2008		
Author:	DH/WD-ERP-REG		
Publication date:	21 December 2007		
Target audience:	PCT CEs, NHS Trust CEs, Care Trust CEs, Foundation Trust CEs, Regulatory Bodies, Professional Bodies,		
Circulation list:			
Description:	This Order is the second in a series of Orders that will take forward the reforms of professional regulation identified in the White Paper "Trust Assurance and Safety". It concentrates on reforms set out in the White Paper but also includes measures required to deliver other legislative requirements		
Cross ref:	Trust Assurance and Safety - The Regulation of Health Professionals		
Superseded docs:	Na		
Action required:	na		
Timing:	Consultation closes on 22 March 2008		
Contact details:	Health Professionals No 2 Order Consultation Regulation Branch Quarry House Quarry Hill Leeds LS2 7UE		
For recipient's use:			

© Crown copyright 2007
First published 21 Dec 2007

Published to DH website, in electronic PDF format only.
http://www.dh.gov.uk/publications

Executive summary

The draft Order annexed to this Paper is part of a series of Orders that will take forward the reforms identified in the White Paper, *Trust, Assurance and Safety – the regulation of health professionals in the 21st Century*. The amendments put forward in this Order concentrate on the reforms set out in Chapter One of the White Paper (*Assuring independence: the governance and accountability of the professional regulators)* but also includes measures that are required to deliver other legislative requirements and some items that have been identified by the regulators as needing urgent reform.

It also introduces the statutory regulation of practitioner psychologists through the Health Professions Council. This builds on the proposals for statutory regulation of applied psychologists first put forward in March 2005. (See the consultation document "*Applied Psychology: Enhancing public protection: Proposals for the statutory regulation of applied psychologists)*

The issues included in this order are:

- Introduction of statutory regulation for psychologists
- Standardisation of the main objective of regulatory bodies, which is to protect, promote and maintain the health, safety and well-being of members of the public, and in particular those members of the public who use or need the services of the bodies' registrants, by ensuring standards which the regulator considers are necessary for the safe and effective practice of particular professions
- Standardisation of the statutory duties to ensure that regulators consider the interests of stakeholders in their deliberations
- Improved arrangements for accountability to Parliament, covering annual reports (including arrangements to ensure that the regulator adheres to good practice in relation to equality and diversity, and a report on the effectiveness of its fitness to practise procedures) and strategic plans
- Powers enabling regulators to consider a person's fitness to practise as impaired where a health care professional has been included in a barred list under the Safeguarding Vulnerable Groups Act 2006 or the Protection of Vulnerable Groups (Scotland) Act 2007
- New constitutional arrangements for the regulatory bodies (including appointed councils, removal of the requirement for council members to be on certain committees, changing the name of president to chair)
- Standardisation of order and rule making procedures

- Registration of council members' interests, where this was not previously provided for

- Standardisation of the arrangements for the constitutions of statutory committees, including introduction of powers for Councils to provide for a body other than the Council to assist it with any function relating to the appointment of members to its committees.

- New provisions in relation to emergencies involving, or potentially involving, large scale loss of human life or human illness etc, when emergency regulations may be made under the Civil Contingencies Act 2004. (Applies to the RPSGB)

- Temporary measures to extend the terms of office of members of the Health Professions Council in post on 8 July 2008, pending the introduction of the new constitution for the Council under the revised Schedule 1 of their Order.

Contents

1. Introduction	8
2. Reforms proposed by this Order	10
3. Statutory Regulation of Practitioner Psychologists	12
4. Safeguarding or Protecting Vulnerable Groups	23
5. Amendments to the Dentist Act 1984	26
6. Amendments to the Health Professions Order 2001	35
7. Amendments to the Pharmacists and Pharmacy Technicians Order 2007	44
8. Consultation and next steps	51
Annex A: The seven domains of psychology practised by practitioner psychologists	54
Annex B: Summary of Consultation Questions	55
Annex C: Code of Practice of Consultation	61
Annex D: Draft Order	62

1. Introduction

1.1. The UK Government's programme for reforming the regulation of all health care and associated professions was first set out in *The NHS Plan – A Plan for investment, a plan for reform.* This made clear that regulation should be strengthened and specified that regulatory bodies must change so that they

- are generally smaller, with much greater patient and public representation in their membership;
- have faster more transparent procedures;
- develop meaningful accountability to the public and the health service.

1.2. Although good progress has been made, the need for further reform was identified in the two reviews of professional regulation published in July 2006: *Good doctors, safer patients* by the Chief Medical Officer for England, and the Department of Health's *The regulation of the non-medical health care professions.*

1.3. The UK Government's White Paper *Trust, Assurance and Safety – The Regulation of Health Professionals in the 21st Century* set out a substantial programme of reform to the United Kingdom's system for the regulation of health professionals, based on consultation on the two reviews mentioned above. It is complemented by *Safeguarding Patients,* the UK Government's response to the recommendations of the Fifth Report of the Shipman Inquiry and to the recommendations of the Ayling, Neale and Kerr/Haslam Inquiries, which set out a range of measures to improve and enhance clinical governance in the NHS.

1.4. The UK Government and each of the regulatory bodies are working together to modernise the regulation of their respective professions in line with the agenda for reform put forward in *Trust, Assurance and Safety* (the White Paper).

1.5. Section 60 of the Health Act 1999 permits the amendment of Acts of Parliament and secondary legislation related to the regulation of health care professions by means of an Order in Council subject to affirmative resolution Parliamentary procedures, including the Scottish Parliament where appropriate.

1.6. The draft Order annexed to this Paper is part of a series of Orders that will take forward the reforms identified in the White Paper. This Order concentrates on the reforms set out in Chapter One of the White Paper (*Assuring independence: the governance and accountability of the professional regulators)* but also includes measures that are required to deliver other legislative requirements and some items that have been identified by the regulators as needing urgent reform.

1.7. It also introduces the statutory regulation of practitioner psychologists through the Health Professions Council. This builds on the proposals for statutory regulation of applied psychologists first put forward in March 2005. (See the consultation document "*Applied Psychology: Enhancing public protection: Proposals for the statutory regulation*

of applied psychologists)

1.8. The reforms set out in this paper will primarily affect professions regulated by;

- General Dental Council
- Health Professions Council
- Royal Pharmaceutical Society of Great Britain

1.9. A parallel Order (*The Health Care and Associated Professions (Miscellaneous Amendments) Order 2008)* was published on 26 November, which makes similar provisions in respect of professions regulated by

- General Medical Council
- General Optical Council
- General Osteopathic Council
- General Chiropractic Council
- Nursing and Midwifery Council

1.10. The reason for having two Orders instead of one is that this Order makes provision in respect of health care professions, the regulation of which, as regards Scotland, is devolved, and measures to this effect are subject to a different procedure.

1.11. Under arrangements contained in schedule 5 to the Scotland Act 1998, matters relating to the regulation of Dentists and Pharmacists are reserved to the UK Parliament. The issues of legislating in respect of dental care professionals, operating department practitioners, practitioner psychologists and pharmacy technicians are devolved, for Scotland, to the Scottish Parliament. This Order also contains measures for the reform of legislation regarding safeguarding vulnerable groups, which is a subject area of mixed devolved and reserved competence. In accordance with the requirements of the Health Act 1999, this is therefore a joint consultation with the Scottish Government.

1.12 In order to allow Scottish Ministers to approve secondary Orders making rules under the provisions of this Order in Council insofar as the rules relate to professions the regulation of which is devolved, a Concordat between DH and the Scottish Health Department will be signed which states that such secondary Orders will not be presented to the Privy Council until DH has received Scottish Ministers' approval of the Order in writing. This will enable the appropriate exercise of both devolved and reserved powers in respect of secondary Orders which apply to both types of professions.

1.13 Matters relating to professional regulation in Northern Ireland are now devolved to the Northern Ireland Assembly, as they are not treated as a reserved matter under Schedule 3 of the Northern Ireland Act 1998.

1.14 This consultation is being run in accordance with the Cabinet Office Code of Practice on Consultation (reproduced at Annex B)

2. Reforms proposed by this Order

2.1. The draft order contains a wide range of reforms, some of which will apply to all the regulatory bodies, whilst other reforms are specific to an individual regulator. Many of the reforms are made to ensure a consistency of approach across all the regulators. Where there are existing provisions these have been updated to bring them into line with the new approach.

2.2. The issues included in this order are:

- Introduction of statutory regulation for psychologists
- Standardisation of the main objective of regulatory bodies, which is to protect, promote and maintain the health, safety and well-being of members of the public, and in particular those members of the public who use or need the services of the bodies' registrants, by ensuring standards which the regulator considers are necessary for the safe and effective practice of particular professions
- Standardisation of the statutory duties to ensure that regulators consider the interests of stakeholders in their deliberations
- Improved arrangements for accountability to Parliament, covering annual reports (including arrangements to ensure that the regulator adheres to good practice in relation to equality and diversity, and a report on the effectiveness of its fitness to practise procedures) and strategic plans
- Powers enabling regulators to consider a person's fitness to practise as impaired where a health care professional has been included in a barred list under the Safeguarding Vulnerable Groups Act 2006 or the Protection of Vulnerable Groups (Scotland) Act 2007
- New constitutional arrangements for the regulatory bodies (including appointed councils, removal of the requirement for council members to be on certain committees, changing the name of president to chair)
- Standardisation of order and rule making procedures
- Registration of council members' interests, where this was not previously provided for
- Standardisation of the arrangements for the constitutions of statutory committees, including introduction of powers for Councils to provide for a body other than the Council to assist it with any function relating to the appointment of members to its committees.

- New provisions in relation to emergencies involving, or potentially involving, large scale loss of human life or human illness etc, when emergency regulations may be made under the Civil Contingencies Act 2004. (Applies to the RPSGB)

- Temporary measures to extend the terms of office of members of the Health Professions Council in post on 8 July 2008, pending the introduction of the new constitution for the Council under the revised Schedule 1 of their Order.

3. Statutory Regulation of Practitioner Psychologists

Introduction

3.1. The Government has made known its intention of bringing those psychologists who provide psychological interventions to the public into statutory regulation since 2001. The reason for this is to set statutory standards of practice, training and conduct to ensure safe and effective practice, and to operate a statutory fitness to practise system to investigate and deal with cases of alleged impaired fitness to practise. This is so that the public can be confident that those practising in this profession and offering such services to the public are all competent and fit to do so. The proposal is that these psychologists should be regulated by the Health Professions Council, using the regulatory framework set out in the Health Professions Order 2001. (*Health Professions Order 2001, SI 2002 No 254)*

Definition

3.2. **Those psychologists to be regulated** means persons who as practitioners:

- use psychological expertise to offer services in advising, counselling, assessing* or intervening with* individuals, groups or organisations for the purposes of promoting, sustaining or improving their or others' psychological health, well-being or functioning, or who are wholly or mainly engaged in teaching at postgraduate level or managing persons who use or are seeking to acquire such expertise; and
- have expertise in one or more of the following domains of psychology: clinical psychology, counselling psychology, educational psychology, forensic psychology, health psychology, occupational psychology, or sport and exercise psychology. A full explanation of each domain is given at Annex A.

  * The terms 'assessing' and 'intervening with' have been used to accommodate chiefly occupational psychologists, whose area of work is furthest removed from work with individual clients. Most of the other domains would fit a definition which replaced these terms with 'diagnosing and treating', which would more clearly exclude non-practitioners such as academic psychologists from the definition.

3.3. For the purposes of this consultation document the psychologists defined above, whom it is intended to regulate by means of the attached Order, are termed **practitioner psychologists.** This will **not** be a protected title but is used purely for ease of reference in this document.

Q1. Do you agree that practitioner psychologists should be statutorily regulated?

3.4. We **do not propose that statutory regulation should cover** teachers of psychology in schools or on undergraduate courses, nor all teachers on postgraduate programmes, or academic, research, or experimental psychologists (some of whom call themselves applied) who work exclusively in the furtherance of psychological knowledge. They do not offer psychological services as defined in 3.2 above. Some may collaborate with practitioner psychologists to teach on postgraduate courses or to carry out joint research which will inform and develop psychological practice delivered by practitioner psychologists and others, but they do not need to be statutorily regulated as practitioner psychologists in order to protect the public for the work they do. Instead, we consider that the standards they need to meet for that purpose relate to teaching or to ethical research. The only teachers whom we propose should be regulated are those teaching on postgraduate courses who move into such teaching from a practitioner background and who are instrumental in teaching others to become practitioners.

3.5. Similarly, the only managers we propose should be regulated by means of this Order are those practitioner psychologist managers who have moved into psychologist management from a practitioner background, and whose role requires them to have practitioner competence.

3.6. Any academic psychologists who do work additionally as practitioner psychologists will need to meet appropriate standards of proficiency and be regulated as practitioners.

Q2. Do you agree that psychologists and teachers working exclusively in the furtherance of psychological knowledge should not be statutorily regulated as practitioner psychologists?

3.7. We also **do not propose to regulate by means of this Order** other people engaged in delivering psychological therapies, such as psychotherapists, counsellors, associate psychologists and other roles in mental health. However, we will publish proposals in a future Order to bring them into statutory regulation, when standards of competence and training appropriate for their practice have been agreed.

Q3. Do you agree that others who deliver psychological therapies should not be dealt with in this Order but should be statutorily regulated in a future Order when standards appropriate to their roles have been agreed?

Background

3.8. In 2001, the Government declared its intention of bringing applied psychologists (those fitting the description in 3.2) into statutory regulation using the vehicle of the Health Act 1999. In 2002 the then Health Minister and the British Psychological Society made a joint public statement at the BPS's AGM that regulation would be via the Health Professions Council. From 2003, BPS collaborated with the Department of Health to inform Government proposals for legislation, which were issued for consultation in

‘*Applied Psychology: Enhancing public protection: Proposals for the statutory regulation of applied psychologists*’ in March 2005.

3.9. The result of the consultation was 55% against and 45% in support of the proposals, with disagreement focused on whether the Health Professions Council was suitable to regulate practitioners working outside healthcare settings, and whether it would have sufficient expertise to regulate a complex and highly qualified profession.

3.10. Talks between DH and BPS to examine BPS concerns took place in 2005. DH reviews of medical and non-medical regulation took place in 2005/6 (*Good doctors, safer patients* by the Chief Medical Officer for England, and *The regulation of the non-medical health care professions* by the Department of Health), were consulted on in 2006 and led to the publication of the Government’s White Paper on regulation reform ‘*Trust, Assurance and Safety; The Regulation of health professionals in the 21st Century’* in February 2007. A report on the consultation of the medical and non-medical review including an analysis of responses was published with the White Paper.

3.11. These reviews and consultation led to further dialogue between DH and BPS and other professional bodies and organisations representing both psychologists and others working in psychological therapies. A number of professional groups put forward alternative proposals for a Psychological Professions Council, but these were rejected by DH because they failed to meet some of the basic requirements for modern statutory regulation arising out of the reviews and the White Paper. The proposals in this document have taken account of further discussions with the BPS and others from the psychology profession, whilst adhering to the basic principles set out in the White Paper.

3.12. BPS has also been encouraged to engage directly with HPC to work through their concerns.

3.13. BPS and DH have considered four basic principles to apply to statutory regulation of psychologists providing psychological interventions to the public, listed below. DH and BPS are in broad agreement with the first three principles. The fourth principle reflects the Government’s position based on statutory requirements. We are aware that BPS would prefer a single protected title, but we are concerned that it could lead to a significant reduction in current standards of practice, depending on the standards adopted, and would therefore reduce public protection. We think it is helpful to consider statutory regulation against these four principles and are grateful to the BPS for suggesting that we do so.

The four principles underpinning statutory regulation

1. **All psychologists should be statutorily regulated who need to be, and no psychologist should be regulated who does not need to be.**

2. **There should be no reduction in protection of the public arising from the transition from voluntary regulation to statutory regulation.**

3. **There should be no reduction in standards of training arising from the transition from voluntary regulation to statutory regulation.**

4. **Titles restricted by law to registrants must reflect the competences required for safe and effective practice by registrants. These should be kept to a minimum to avoid confusion, but need to differentiate between practitioners who need different competences.**

DISCUSSION OF THE FOUR PRINCIPLES

Definition of those psychologists to be regulated

3.14. Our definition in the whole of the two bullet points of paragraph 3.2 above is designed to capture those psychologists whom we think should be regulated and to leave out those whom we think should not. This means that all BPS Chartered Psychologists with practising certificates and an adjectival Divisional title will be automatically transferred to the HPC registered psychologist register on the day that it opens, unless there are outstanding fitness to practise proceedings relating to them.

3.15. The Association of Educational Psychologists keeps a membership list of educational psychologists with the same approved qualifications as BPS Chartered Educational Psychologists, supported by a Code of Practice and disciplinary and appeal procedures. Depending on the overall provision of their system it may be appropriate to transfer automatically those of their members who will meet HPC registration requirements. If automatic transfer is not possible there should be some scope for reducing the grandparenting scrutiny of AEP educational psychologists with approved qualifications.

3.16. During previous consultations concerns were expressed by some domains of practitioner psychologists that they should not be statutorily regulated by the Health Professions Council. The complaint was that the HPC was seen as operating a medical model of regulation with no understanding of a behavioural science approach, and no experience of regulating a profession working across many contexts and settings including those outside health and social care. We have taken note of this complaint but consider that the HPC does regulate many other professions with members who do not work in health or social care. These professions recognize however that the general principles underpinning HPC regulation apply to all their members and have accepted a versatile and inclusive system of regulation which combines comprehensive common processes and requirements where appropriate, and the flexibility of profession and domain specific requirements informed by the professions and domains themselves. The behavioural science approach is already used by some of HPC's regulated professions, although BPS assert that only practitioner psychologists are full behavioural scientists. HPC's ability to regulate such groups will be further enhanced by the acquisition of input from practitioner psychologists.

3.17. BPS itself has remained insistent that all domains of practitioner psychologists should be regulated together. The definition of practitioner psychologists is therefore drawn widely enough to include all the seven domains to whose members BPS currently give practising certificates, and must include all those who fit within the definition in 3.2. It goes without saying that if all practitioner psychologists are to be regulated together, a single regulator who can regulate across the whole range of contexts and settings in

which they practise, including health and social care as well as non-health settings, is needed.

3.18. Occupational psychologists, including business psychologists, have raised objections to being regulated by a regulator whom they feel has no apparent understanding of their scope of practice or the context in which they work. Similar concerns have been raised by some educational psychologists, expressed less as a point of principle than as a need for more understanding about how such regulation would work in practice.

3.19. The Government's view is that a case can be made that all seven domains fit within the definition for practitioner psychologists in 3.2, and, most importantly, should be statutorily regulated for the protection of the public to whom or on whose behalf they provide psychological services based on psychological need. There may however be a case for those who work primarily with organisations rather than with individuals or groups to be omitted from statutory regulation. If occupational and business psychologists were omitted, it would be possible to adjust the wording of the definition in 3.2 to make clearer the distinction between academic psychologists, whom we do not intend to regulate, and practitioner psychologists, whom we do.

Q4. Do you agree that all seven domains should be statutorily regulated by HPC? If not, which domains should not?

Q5. Do you agree with the descriptions of the seven domains in Annex A? If not, what alterations would you recommend?

Grandparenting proposals

3.20. BPS currently give practising certificates to some psychologists who are not registered within the seven domains covered by their Divisional accreditation, the Divisions corresponding to the seven domains. Some 1,600 would be eligible for Divisional accreditation, and if BPS identify and accredit them with the appropriate Division before the HPC register opens they would be automatically transferred to it.

3.21. Grandparenting is a transitional provision to allow competent current practitioners without approved qualifications, who would therefore not be eligible for automatic registration, to continue to practise where appropriate. There will be a proposed grandparenting period of three years to allow time for these practitioners to demonstrate that they meet the standards for registration, including undertaking any additional training which may be necessary. Once the grandparenting period is over the only route to registration and practice will be by meeting fully HPC registration standards for all UK and overseas-trained applicants, as specified in legislation such as the Health Professions Order as amended.

3.22. In addition, BPS currently give practising certificates to another 1,400 Chartered psychologists who do not fully meet the standards of any one of the Divisions. These include:

- Psychologists who are Chartered by means of their academic training sometimes supplemented by supervised practice or experience, which does not meet the full range of competences required for one of the seven domains.
  - Of these, some may offer advice as consultants in their academic areas of expertise. We propose that these should make clear that they are not qualified to offer services as a practitioner psychologist and if necessary either curtail their consultancy activities or undergo training to become competent to practise fully;
  - others may offer a full psychological service as defined in 3.2 above but in their narrow area of academic expertise only. We propose that the latter group seek to achieve HPC registration under grandparenting.
- Some, but not all, psychologists trained overseas in part only of a full domain of practising psychology. This includes some neuropsychologists whose training does not cover the full range of competences for a clinical or educational psychologist, which in the UK is the prerequisite for the post-registration neuropsychology training.

3.23. Our proposal is that all current BPS practising psychologists who do not meet the full range of competences for a Division and domain should be required to undergo assessment and if necessary training including a further period of supervised practice to meet HPC registration standards, during the proposed grandparenting period of three years after the HPC register is opened.

Q6: Do you agree that holders of BPS practising certificates who do not meet the full range of competences for one of the seven domains of psychology practice should be eligible for HPC registration and continuing practice only if they demonstrate they meet HPC standards for safe and effective practice, including undergoing additional training if necessary?

Standards and levels for protection of the public

3.24 In our proposals, statutory regulation requires the setting of standards of conduct, performance and ethics, and also of proficiency such as the regulator considers necessary for the safe and effective practice of psychology as defined above. This means that the regulator must set standards of competence and must approve education and training to deliver those competences, at a threshold level which delivers safe and effective practice by all registrants within that profession. Most will go on to develop additional specialist expertise after registration, but none should fall below it at the point of registration.

3.25 The regulator is not compelled to approve education and training only at the threshold level, but may approve courses and qualifications at a higher level. BPS have advised

us that the competencies required for entry onto the BPS voluntary register as a practising Chartered Psychologist have been benchmarked at level 12/Doctoral level. This level of education and training can be achieved either through a professional doctoral programme in a University or by undertaking the BPS's own qualifications. BPS have told us that these may supplement a Master's level qualification. Whichever route is taken and whatever the academic award title, BPS say that the level of competency required is equivalent and leads to Chartered status. BPS state that this is the level for all current BPS practitioners, although it is not clear to us and is disputed by some members of the profession that the level equates in all domains to Doctoral level. If there is a difference in the level of competence between different domains, it may be worth considering setting different threshold levels of qualification for different domains.

3.26 In our proposals, it will be for HPC to set standards of proficiency and standards of education and training, including the threshold level of qualification for entry to the register. They will do this only after full public consultation with all stakeholders, planned for November 2007 to January 2008.

3.27 Practitioner psychologists must all meet the standards required in one or more of the seven domains of psychology listed above. These are expected to require **at least three years' undergraduate education in psychology accredited by the BPS for the Graduate Basis for Registration and three years' or equivalent postgraduate education and training in psychological practice**. Only registrants who meet them will be allowed to register. Not being on the register will not, in itself, prevent someone from practising, but it will prevent him or her from using one of the protected titles associated with practitioner psychologists if they do. In time, we anticipate that, in particular, public bodies commissioning services from practitioner psychologists will only commission services from those who are registered.

3.28 Some business psychologists, who operate within the occupational psychologist domain, have raised the question of whether they should be required to have a first degree in psychology before undergoing postgraduate training, since some current practitioners undertake postgraduate education and training in business psychology following a first degree in a different discipline. If they were to continue to practise as occupational psychologists they would need to have their overall training, education and experience assessed against HPC standards of proficiency and might need additional training to achieve registration via grandparenting.

Q7. Do you agree that standards to protect the public should cover conduct, competences and education and training?

Q8. Do you agree that practitioner psychologists should need to have at least three years' undergraduate education in psychology accredited by the BPS for the Graduate Basis for Registration plus three years or equivalent postgraduate education and training?

3.29 There will be an opportunity in a future Order to regulate others working in psychology with different patterns and levels of training, such as psychology graduates with a one-

year post graduate training. These will not have the same competencies as full clinical psychologists. The clear distinction between the two levels of education, training and practice for these two different roles **(the first with three years' or equivalent postgraduate education and training in psychological practice, and the second with one year's postgraduate education and training in psychological practice)** will be maintained.

3.30 Standards of proficiency will be set by the Health Professions Council. In developing them, they are working with members of the profession of practitioner psychologists and members of the public to ensure that standards are **necessary; adequate;** and **comprehensive.** The starting point for development of the HPC standards is the standard currently used by practitioner psychologists. The standards will include specific competences for practice in different domains where necessary as well as generic competences required for safe practice by all practitioner psychologists. The generic standards of proficiency for all HPC registrants will also be included, and there will be scope to consider modifying these to accommodate practitioner psychologists' practice and the contexts in which they work, while ensuring that relevant standards for all registrants are preserved.

3.31 Statutory regulation will increase the protection of the public by bringing into regulation those not adequately covered by voluntary regulation.

Q9. Do you agree that partnership working between HPC, the profession and the public is the right way to design standards of proficiency for this profession?

Education and training standards and accreditation

3.32 In our proposals, the standards of training for entry to the register must be set so that the standards of proficiency necessary for safe and effective practice are met.

3.33 Such standards must take account of matters such as the outcomes to be achieved by such education and training. They are therefore derived from competences rather than level of academic award. Standards must be applicable across the UK.

3.34 Standards of both proficiency and education and training are developed with input from members of the professions and are subject to full consultation before adoption. The regulator makes the final decision on standards.

3.35 Education quality assurance for both pre- and post-registration education and training including Continuing Professional Development is the responsibility of the regulator who has the non-delegable duty of both setting such standards and satisfying itself that they are met. In doing so, it may arrange with others, including members of the profession, to approve courses, qualifications and institutions in accordance with criteria which it must set. Pre-registration education and training means practitioner psychologist education and training only, that is, at postgraduate level. Undergraduate psychology programmes are not within the remit of the statutory regulator.

3.36 Academic quality assurance operated through the HEI system designed to ensure that academic programmes are fit for award will continue as now. This proposal relates to an additional requirement for the statutory regulator to operate quality assurance to ensure that vocational education and training programmes deliver fitness to practise. These systems will overlap to some extent and there will be scope for some co-operation to avoid unnecessary duplication of information provision on the universities concerned.

3.37 The Government has considered calls from many professional bodies from a number of professions for a statutory prescribed role for them to take part in professional education and training accreditation. While the Government acknowledges that professional expertise and input, amongst others, is essential for appropriate accreditation, its position is that it is not right to dictate to the statutory regulator how it should obtain this input, as this could hamper both its impartiality and its efficiency. The statutory regulator is required to take into account the views of a wide range of stakeholders in performing its functions. In the case of the Health Professions Council, its duty to co-operate will be amended so that it has the new standard duty of all health care regulators, which includes a duty to co-operate, in so far as it is appropriate and reasonably practicable, with bodies concerned with the education or training of registrants.

Q10. Do you agree that standards of proficiency, education and training should be derived from competences necessary for safe and effective practice?

Q11. Do you agree that the regulator should have discretion as to how it obtains professional expertise to carry out professional education accreditation?

Protected titles

3.38 The restriction of legally protected titles to those who are registered carries with it the possibility of criminal offences being committed, punishable by fines, if individuals:

- Use a title they are not entitled to
- Falsely represent themselves to be registered
- Falsely claim to possess professional qualifications

3.39 A single protected title may not protect the public. Because titles are integrally linked to standards of competence necessary for safe and effective practice, a single title would need to be associated with competences that all registrants using the title could meet. Current standards used by BPS show that there are domain-specific competences in addition to generic practitioner psychologist competences which all can meet. If the domain-specific ones are lost, registrants in those domains may be allowed to meet lower standards than they do now, and public protection will be reduced.

3.40 BPS have proposed that the single title of 'Psychologist' or, failing that, 'Registered Psychologist' should be protected and should be linked to generic practitioner psychologist competences.

3.41 The Government has made clear that it is not possible to restrict in law the title 'Psychologist' to one subset only of all those who legitimately claim and use that title. To protect the generic title "psychologist" means either setting standards too low to protect the public from poor performance by practitioner psychologists, since the practising competences would need to be left out so that research and academic psychologists, as well as others who can legitimately describe themselves as psychologists, could meet them. Alternatively, protection of this title would unfairly criminalise these groups if they tried to use a title to which they have historically been entitled but which has become associated with standards which they could not, and do not need to, meet.

3.42 In statutory regulation the term 'registered', for example in the expression 'registered psychologist', is not usually part of the protected title, as individuals would still be able to call themselves "psychologist", even if they are not a 'registered psychologist', without committing an offence. However in those professions where there is a need to distinguish between a specifically-competent set of practitioners and others in the profession without such competences, registration is limited to those with the competences and the term 'registered' is part of the protected title. In a health care context, the term 'registered' is currently only used for Registered Medical Practitioners and Registered Nurses, but would also be an appropriate descriptor for practitioner psychologists, particularly given the fact that the term 'chartered psychologist' already has common currency, which is in effect a description linked to voluntary registration. We recognise that this would be unique for a profession regulated by the Health Professions Council, but it would meet the particular circumstances of this one profession. The protected titles of the other professions regulated by HPC will remain unchanged by this proposal.

3.43 The Government's proposal is therefore to use the term 'registered psychologist' as the name of the part of the HPC register to refer to all registered psychologists within the different domains. However, the protected titles will reflect the competences needed for safe and effective practice in each practitioner psychologist domain. The protected titles will be:

- Clinical psychologist
- Counselling psychologist
- Educational psychologist and child psychologist
- Forensic psychologist
- Health psychologist
- Occupational psychologist
- Sport and exercise psychologist

3.44 For educational psychologists we propose to protect two commonly used titles which are recognised as interchangeable and relate to the same competences.

3.45 Depending on the outcome of the HPC consultation on standards of proficiency for practitioner psychologists mentioned in 3.26 above, it may be that agreement can be reached on sufficiently robust generic standards which include domain-specific competences as well as generic practitioner competences. If so it may be possible to protect the one title of 'registered psychologist' instead of, or as well as, the seven domain specific ones. Views on this are particularly sought.

3.46 It has been suggested that some academic, research or experimental psychologists whose theoretical expertise lies in one of these areas should be allowed to use the title appropriate to them from this list, without committing an offence in law. Our proposal includes an exemption to the offence of using a title to which there is no entitlement for such academic psychologists. They must not however claim to be registered or qualified for practice as a registered psychologist: to do so will remain offences. It has also been suggested however that the existence of such an exemption could cause confusion, since some non-practitioner psychologists would be continuing to use titles which denote practitioner competences. We would welcome views on whether or not this exemption should be provided.

Q12. Do you agree that some academic and research psychologists should be allowed to use protected titles without committing an offence, as long as they do not practise as in the definition in 3.2?

3.47 The title chosen for the current group of practitioner psychologists (those with 3 years' postgraduate training or equivalent) proposed for statutory regulation must not fetter legislators by excluding other groups of psychologists who may evolve in the future and require statutory regulation. One such group is associate psychologists whose role and one-year or equivalent postgraduate training is currently being developed.

Q13. Do you agree with the proposed protected titles? If not, what others would you suggest?

OPTIONS FOR THE REGULATION OF PRACTITIONER PSYCHOLOGISTS

3.48 During discussion of the present proposals, it was suggested that the Department of Health should provide a synopsis of the options appraisal it had previously carried out to consider the most suitable regulator for the profession. This was to instil confidence that the proposed regulator would be able to deliver against key principles underpinning the need for proper public protection.

3.49 Options had been identified and appraised by DH in the original consultation in 2005 and had again been considered as part of the review of non-medical regulation in 2006 and in the White Paper 'Trust, Assurance and Safety' published in 2007, and also in the Department's critique of the proposals from the psychological professions for a Psychological Professions Council. We are grateful for the time and care given by these bodies in putting forward their suggestions which we have taken into account in arriving at the proposals presented in this document.

3.50 DH has during this overall process appraised the following four options:

- Voluntary regulation by BPS
- Statutory regulation by BPS
- Statutory regulation by HPC
- Statutory regulation by a separate Psychology Professions Council.

4. Safeguarding or Protecting Vulnerable Groups

4.1. There are three types of changes that relate to safeguarding or protection of vulnerable groups' legislation.

Barring decisions to protect vulnerable groups

4.2. This draft Order adds the Independent Barring Board including a person in a barred list, or Scottish Ministers including a person in the Children's or Adults' list, to the reasons that the GDC, the HPC or the RPSGB may consider a person's fitness to practise to be impaired. Broadly, people are included in barred lists if they are found to have engaged in conduct that demonstrates that they are a risk to children or, as the case may be, adults, or if it has been established by another route that they present such a risk.

4.3. The effect of the proposed new provisions would be that regulators would be able to take action against someone who appears on a barred list without needing to prove again the facts that led to a person appearing on that list. A similar approach is already taken with criminal convictions. Regulators are already able to take action based on criminal convictions without needing to prove the substance of the allegation that led to the conviction. The amendments should help to speed up the process of dealing with health care professionals who have already been the subject of an investigation that has led to serious adverse findings against them.

4.4. Without these new provisions, the regulators would have to start from the beginning in a case, for example, where a health care professional had engaged in conduct that endangered a child, and would need to prove that the person on the barred list was guilty of "misconduct". In some cases, this could lead to delayed action against professionals who were a known risk to others.

Q14 Do you agree with adding appearance on a barred list to the grounds for which a health professional's fitness to practise may be considered to be impaired?

Safeguarding Vulnerable Groups Act 2006

4.5. A set of changes is made to the Safeguarding Vulnerable Groups Act 2006 itself (Schedule 4, paragraph 4 of the annexed draft Order).These amendments extend the provisions in section 43 of the 2006 Act, which relate to the Secretary of State's duty to notify regulators of barring and monitoring decisions, and the Independent Barring Board's (IBB) duties to notify the regulators of relevant matters. These duties of the Secretary of State and the IBB, which had previously been restricted to registered teachers and social workers, are now extended to all health care workers who are subject to statutory regulation.

4.6. An amendment to section 44 of the 2006 Act makes provision for the health care regulators to be able to apply for information about whether an individual is barred, subject to monitoring or being considered by the IBB. This is limited to those on the relevant register and those who are being considered for inclusion in it.

4.7. The regulatory bodies are also to have new duties to refer information to the IBB about a person's unsuitability to work with children and/or vulnerable adults. The regulatory bodies are responsible for the regulation of individuals, in some cases the inspection of services, and the investigation of complaints about individuals and in some cases services in the health fields. They will therefore hold information which is relevant to the suitability of individuals to work with children and/or vulnerable adults and of interest to the IBB.

4.8. The UK Government has been working with representatives of the regulatory bodies to consider the circumstances in which a regulatory body should refer information to the IBB. It is proposed that they should make a referral when the following conditions are met:

the regulatory body has decided:

- not to register an individual;
- to de-register an individual;
- to suspend an individual's registration (including interim suspension during an investigation);
- to place conditions on the registration of an individual (including interim conditions pending the outcome of an investigation);
- to undertake an investigation of an individual;
- that the information that it holds is likely to lead to one of the sorts of sanctions described in the previous bullet points;

because they consider that the individual or one or more individuals associated with the service has/have either:

- harmed a child or vulnerable adult;
- placed a child or vulnerable adult at risk of harm;
- incited others to harm a child or vulnerable adult;
- is/are a risk to children or vulnerable adults;
- is facing automatic inclusion in a barred list;
- engaged in one of the forms of conduct which, under the Act, is proscribed conduct, such as inappropriate conduct involving sexually explicit images depicting violence.

4.9. It is anticipated that the relevant provisions of the 2006 Act will come into force in Autumn 2008. The package of measures, taken as a whole, brings the health care regulatory bodies fully within the vetting and barring scheme created by the Act and thus integrates them fully into an important new set of measures for public protection.

Q15 Do you agree with the proposed set of changes to the Safeguarding Vulnerable Groups Act 2006?

Protection of Vulnerable Groups (Scotland) Act 2007

4.10. As is indicated above, a different scheme for the protection of vulnerable adults and children applies for Scotland than for England and Wales. This Order makes provisions supplementary to the listing arrangements in the Protection of Vulnerable Groups (Scotland) Act 2007 (article 6 of the annexed draft Order). The draft provisions require Scottish Ministers to notify any relevant regulatory body when an individual has been barred from doing regulated work with children or adults, or that they are considering whether to list the individual. Scottish Ministers may also provide such details as they think appropriate about the circumstances in which an individual was barred, or considered for listing. Where the Scottish Ministers remove an individual from a barred list, they are placed under a duty to notify the relevant health regulatory body of that fact.

4.11. Taken together, these new measures are a set of supplementary notification arrangements designed to bring the health regulatory bodies fully within the vetting and barring scheme in Scotland and so integrate them more fully into an important new set of measures for public protection.

Q16 Do you agree with the proposed supplementary measures relating to the Protection of Vulnerable Groups (Scotland) Act 2007?

5. Amendments to the Dentist Act 1984

Amendment of Section 1

Main aim and objective

5.1. Statutory regulation provides a system enforced by law, which sets down:

- Standards of competence for a profession
- Standards of education and training by which people may meet these,
- A register of those competent, with protected titles, which may be used only by those registered, and
- A system to investigate, and if necessary prevent or restrict practice by registrants who become unfit to practice.

5.2. The main purpose of statutory regulation is to protect the health, safety and well-being of people using or needing the services of registered professionals. As indicated above one of the reasons for statutory regulation is to ensure proper standards that are necessary for the safe and effective practice of a particular profession.

5.3. In recent years, the opportunity has been taken, progressively, to give each of the regulators a main objective focusing instead on public protection. However, the legislation covering each regulator had slightly different wording, leading to a lack of clarity of the role of professional regulation as a whole.

5.4. It is therefore proposed that each regulator should have as its main aim and objective a version of the following:

> "The main objective of the General Council in exercising such of its functions as affect the health, safety or well-being of members of the public is to protect, promote and maintain the health, safety and well-being of members of the public, and in particular of those members of the public who use or need the services of dentists or dental care professionals, by ensuring that dentists and dental care professionals adhere to the standards which the Council considers are necessary for the safe and effective practice of their professions"

5.5. This will be a new duty for the General Dental Council. By making it clear that public protection, linked to ensuring standards for safe and effective practice, is the main objective of the regulators, it is intended to emphasise its importance as the main focus of regulation and to steer regulators further towards public interest overriding that of registrants.

5.6. Including "well-being" of the public in this objective is a reflection of the change in focus of health care generally from cure to prevention and health promotion.

5.7. This objective also now shows a link between registrants and the people for whom they provide services. It is intended that this will strengthen the focus of the regulator on that link rather than on a general duty to protect the public.

Q17 Do you support having, as a main objective for the General Dental Council, as with other regulators, a provision giving greater emphasis to the importance of public protection?

Duty to consider the interests of stakeholders

5.8. The amendment to section 1 introduces a new section 1(1B) requiring the General Dental Council to consider the interests of those persons using or needing the services of its registrants, and to the differing interests of differing categories of registrants.

5.9. The White Paper highlighted the need to ensure closer co-operation and co-ordination between regulatory bodies and employers. As with other areas, the legislation covering each of the regulators is different. Some of the regulators already have a duty of co-operation and/or a duty to consider the interests of stakeholders. There is a lack of clarity and it is therefore necessary to embed a standard duty to consider the interests of stakeholders and a duty of co-operation, in so far as is appropriate and reasonably practicable, with key stakeholders with an interest in the work of the regulator. In particular, this includes

- Employers
- Education and training providers
- Health service providers
- Other regulators

5.10. Some of these have traditionally been seen as weak areas for engagement by regulators, so that professional regulation has not always been developed in the most appropriate way. The current health system reforms will make stronger links between systems regulators and professional regulators and this will be supported by a corresponding duty on regulators.

5.11. Most regulators, especially those that have been subject to recent reforms, already have some provisions regarding co-operation with stakeholders. In the case of the GDC, new measures were introduced in the Dentists Act 1984 (Amendment) Order 2005, which contains the main duties on the GDC of co-operation with external bodies, in the new section 2A mentioned below. The existing legislation is however varied in its terminology and requirements and this has led to some concerns amongst service providers, managers, employers and registrants who have found the different approaches confusing.

5.12. The amendments to section 1 of the Dentist Act are part of the process of ensuring that there will be a consistent approach between the health care professional regulators. This is linked with a corresponding amendment to the duty of co-operation in Section 2A. (see 5.16 below)

Q18 Do you agree with the requirement that GDC should have proper regard for the interests of people using or needing the services of dentists and dental care professionals, and proper regard for the differing interests of different categories of their registrants?

Amendment of section 2

Appointments to committees

5.13. Section 2 has been amended so that instead of the General Dental Council's statutory committees being constituted by order of the Privy Council, they will be constituted by Rules of the General Dental Council. This devolves responsibility for the internal workings of the Council down onto the Council. Those rules may also make provision for the Council to make arrangements with another body for that body to assist the Council with making appointments to its committees.

5.14. With Councils becoming smaller and more board-like, operational issues are likely to be overseen through the use of committees. All regulators have a number of committees required by legislation but will make use of other committees as and when necessary. In all cases, it is the responsibility of the General Council to appoint members of these committees.

5.15. The statutory committees are the ones that have public functions set out in legislation so it is particularly important that appointments to these committees be carried out in a proper manner. In order to give greater flexibility to the Council in exercising this function it is proposed by this Order to allow the Council to arrange with another body (including one of its own committees) for it to assist the General Council with making such appointments. This is a facilitative measure, giving greater flexibility to the General Dental Council.

Q19: Do you agree that the GDC should have the option of engaging other bodies to assist it with these appointment functions?

Amendment of section 2A

Duty of co-operation

5.16. This amendment is linked to the introduction of the duty to consider the interests of persons using or needing the services of registered professionals (see paras 5.8 to 5.12 above), and may perhaps be described as the opposite side of the coin. Whilst the amendment to section 1 requires the interests of persons using or needing the services of registrants to be taken into account, this amendment relates to those persons who are concerned with the provision, supervision or management of health services. It makes clear that the duty of co-operation on the General Dental Council with its stakeholders includes co-operating, in so far as is appropriate and reasonably

practicable, with those persons who carry out activities in connection with the provision, supervision or management of health services.

Q20 Do you agree that the changes to these duties will improve the co-operation and co-ordination between professional regulators and key stakeholders?

Amendment of section 2B and 2C

Annual reports, statistical reports and strategic plans

5.17. The General Dental Council has a number of core functions relating to the protection of the public and maintenance of standards within the professions they regulate. The public, patients and the health professionals themselves must be able to take it for granted that the Council will act dispassionately and without undue regard to any one particular interest, pressure or influence.

5.18. The UK Government believes that to ensure public confidence the professional regulators must be independent in their action and equally importantly be seen to be independent.

5.19. They must be

- independent from Government, insulated from day to day political pressures
- independent from those who employ health professionals and
- independent of health professionals themselves and the bodies that represent them.

5.20. All these stakeholders share the commitment to fair regulation of health professionals in the best interest of patients and the public, but they do so from different perspectives or points of view. The ability of the regulators to sit outside those differences and be guided by the role that Parliament has agreed for them on behalf of society is critical to their effectiveness.

5.21. Just as it is Parliament that has agreed the role of professional regulation and conferred statutory duties on the regulatory bodies, it must be to Parliament that the regulators are accountable.

5.22. The legislation covering the various regulatory bodies already makes provision for most of the regulators to prepare annual reports and audited accounts. These provisions, in section 2C of the Dentists Act, will remain unchanged by this Order, except for an updating of the reference to statutory auditors to take account of changes in the companies Act 2006 and a new provision requiring the GDC to send a copy of its accounts and the auditors report on them to the Auditor General for Scotland. However, the provisions with regard to the content of annual reports will change. It is important to strengthen the accountability of regulators to Parliament, with the move to greater

independence from government. Making the regulators more accountable to Parliament will ensure that there will continue to be checks and balances on the regulators exercise of their functions, in order to maintain public confidence in the system of regulation.

5.23. The amendments to sections 2B update the provisions in the Dentist Act dealing with these issues.

5.24. The General Dental Council is currently required to produce an annual report, together with a statistical report about its fitness to practise arrangements which it submits to the Privy Council, which in turn lays the report before the UK and Scottish Parliaments.

5.25. The amendments make further provision as to the content of these reports, requiring the GDC not just to produce a statistical report which indicates the efficiency and effectiveness of its fitness to practise procedures but also to describe the arrangements that the GDC has in place to ensure that they adhere to good practice in relation to equality and diversity, thus ensuring that it provides information on how its has monitored the effects of its policies and activities on the diverse range of people they affect.

5.26. The GDC will also be required to submit a forward look or future strategy document to the Privy Council along with its annual report. For ease of reference this has been referred to in the draft Order as a strategic plan. The UK Government is continuing to discuss with the GDC and the other regulatory bodies the precise nature and content of such plans, as part of this consultation.

5.27. The Privy Council will lay both annual report (and the statistical report, if separate) and strategic plan before the UK and Scottish Parliaments.

Q21 Do you agree that Parliament should play an enhanced role in relation to the monitoring of the General Dental Council, facilitated by the improved arrangements for notification of information relating to its past and future activities?

New Section 2E

Registration of members' private interests

5.28. This section introduces a requirement for the General Dental Council to maintain a register of the private interests of their council members. This is in line with best practice for the management of public bodies. The purpose of the register is to encourage transparency, openness and accountability. It is to provide information of any interest or other benefit of a council member which may be seen by others as likely to influence his or her actions taken in the capacity of a member of the Council. Encouraging greater openness and accountability will reinforce public confidence in the actions of the regulatory bodies

Q22 Do you agree that the GDC, in common with all regulators of health care professionals should be under a legal duty to maintain a register of the private interests of its members?

Amendment of Sections 27 and 36N

Safeguarding or Protecting Vulnerable Groups

5.29. The amendments proposed will add to the reasons that a persons fitness to practise may be considered impaired

i) the Independent Barring Board including a person in a barred list

ii) Scottish Ministers including a person in the children's list or the adults' list.

5.30. The explanation of this change is set out in Section 4 above.

Amendment of Section 51

Orders of the Privy Council

5.31. There are a number of ways in which the Privy Council makes legislation. These include:

- Orders made by Her Majesty in Council, sometimes after the draft orders have been approved by both Houses of Parliament (and where appropriate the Scottish Parliament)
- Orders of the Privy Council, which can normally be made by any two members of the Council. Some of these will be required by law to be in a Statutory Instrument, and some of the Statutory Instruments will need to be subject to a Parliamentary procedure which means that they may be annulled by either House of Parliament or the Scottish Parliament.

5.32. The annexed draft Order is an example of the first of these types of Order, an Order in Council, but so, for example was the constitution Order of the General Dental Council. In addition, various provisions exist in the legislation covering the regulatory bodies which allow for the second of these types of Order, an Order of Council to be made. However, there has been no consistency as to when Privy Council Orders have been required for approving regulators rules, or as to which of those Orders need thereafter to be laid before Parliament, or as to when to have an Order in Council rather than an Order of Council. The present picture is simply confused.

5.33. The spotlight has been turned on these inconsistencies because of the changes to the governance arrangements described below (see paras 5.39 to 5.45). The new constitution Order will be an Order of Council, and the opportunity is being taken to rationalise the oversight arrangements for the legislation that the Council makes itself.

5.34. The general principles underpinning the changes are that Orders made by the Privy Council in relation to the overall structure and functions of the Council or which will affect the Human Rights of individual practitioners will (given the importance of these types of legislation) continue to be made by Statutory Instrument and subject to annulment by Parliament and, in the case of rules relating to professions regulated since devolution in Scotland, the Scottish Parliament. Commonly referred to as a negative resolution procedure this means that each statutory instrument must be laid before Parliament but will come into effect unless either House or the Scottish Parliament passes a resolution against it.

5.35. The Scottish Parliament's powers arise in the context of professions regulated since devolution in Scotland. Where they do vote against a set of measures that are for the regulation of dental care professionals that have only become subject to regulation since devolution in Scotland, the measures are annulled in their entirety, even if they also contain measures that relate to reserved matters.

5.36. Generally, however, rules or regulations that deal with "process" issues will no longer need to be laid before Parliament. An example of this is rules that deal with the structure of statutory committees. These types of "process" rules or regulations will however continue to be subject to approval by the Privy Council for the time being. These types of rules or regulations will also continue to be made by statutory instrument and so the drafting of them will continue to be subject to scrutiny by the Parliamentary Joint committee on Statutory Instruments.

5.37. Some matters are simply left to the regulators to determine themselves, even if the framework for them is to be set out in rules or regulations. These include rules relating to the form and keeping of the registers.

5.38. Overall, the intention is to increase the autonomy of the General Dental Council in dealing with "process" issues whilst at the same time increasing the Parliamentary scrutiny of "outcomes". Part of this strategy is to simplify the process for the GDC to make changes to its internal rules, whilst retaining some scrutiny of their broader public policy issues. It is anticipated that there will be further moves towards giving the GDC greater autonomy over, for example, its internal committee structures, later on in the programme of reform.

Q23 Do you agree with the strategy for standardising the order and rule making powers of the GDC, and with the move towards giving it greater flexibility over internal "process" issues?

Amendment of Schedule 1

Constitution

5.39. The UK Government firmly believes that the professional regulators must be seen to be independent and impartial in their actions. Doubts based on a perceived partiality have

threatened to undermine patient, public and professional trust in a number of the regulators over many decades.

5.40. Over recent years, most of the regulators have made changes to provide greater reassurance that they are even-handed in their deliberations and decisions but their perceived dependence, or attachment to, a particular interest has continued to weaken or threaten confidence in those actions. The constitutions of the regulators are central to these perceptions. Firstly, some are seen to be partial to professionals as they form a majority on their Councils. Secondly, some are seen to be partial because their Councils are thought to be elected to represent the particular interests of health professionals.

5.41. The White Paper therefore proposed that:

- The Councils of the regulatory bodies should have, as a minimum, parity of membership between lay and professional members, to ensure that purely professional concerns are not thought to dominate their work;

- To dispel the perception that Councils are overly sympathetic to the professionals they regulate, council members will be independently appointed; and

- To enable Councils to focus more effectively on strategy and the oversight of their executives, they will become smaller and more board-like, with greater consistency of size and role across the professional regulatory bodies.

5.42. A working group has been established to consider the overall governance arrangements for the regulatory bodies and is expected to report at the end of November 2007. In the meantime, this Order makes amendments to the legislation to allow for the constitutional arrangements for each regulator to be set out in an Order made by the Privy Council.

5.43. The amendments put forward in the annexed draft Order will allow the Privy Council to provide by Order for the numbers of lay and registrant members on the General Dental Council, their terms of office, arrangements for appointing a chair, and provisions with respect to the suspension or removal of members.

5.44. At present the GDC consists of a number of lay members appointed by the Privy Council (which in practice delegate this task to the Appointments Commission), and a number of registered dentists and dental care professionals who are elected by the registrants themselves. In future, all members of the Council will be appointed by the Privy Council (in practice, through Directions, by the Appointments Commission).

5.45. Paragraph 8 of schedule 1 is amended, and together with the new paragraph 8A, provides for the General Council to regulate its procedure and the procedure of its committees (other than the statutory committees listed in Section 2 of the Act) by standing orders. Also, by virtue of the proposed new paragraph 8A(2), subject to any provision of the Act, rules made under the Act, or standing Orders of the Council, each committee is expressly given the power to regulate its own procedures by standing orders. These amendments are intended to give greater flexibility to the GDC in respect of its internal procedures.

Q24 Do you agree with the new, more flexible arrangements for establishing the constitution of the GDC?

6 Amendments to the Health Professions Order 2001

Amendment of Article 3

Main aim and objective

6.1. Statutory regulation provides a system enforced by law, which sets down:

- Standards of competence for a profession
- Standards of education and training by which people may meet these,
- A register of those competent, with protected titles, which may be used only by those registered, and
- A system to investigate, and if necessary prevent or restrict practice by registrants who become unfit to practise.

6.2. The main purpose of statutory regulation is to protect the health, safety and well-being of people using or needing the services of registered professionals. As indicated above one of the reasons for statutory regulation is to ensure proper standards that are necessary for the safe and effective practice of a particular profession.

6.3. In recent years, the opportunity has been taken, progressively, to give each of the regulators a main objective focusing instead on public protection. However, the legislation covering each regulator had slightly different wording, leading to a lack of clarity of the role of professional regulation as a whole.

6.4. This amendment therefore expands the main objective of the Health Professions Council to make clear that its main objective, when exercising its functions, is to promote and maintain the health, safety and well-being of members of the public, and in particular, of those members of the public who use or need the services of registrants.

6.5. By making it clear that public protection is the main objective of the Council, it is intended to emphasise its importance as the main focus of regulation and to steer it further towards public interest overriding that of registrants.

6.6. Including "well-being" of the public in this objective, which the HPC has always had but some of the other regulators have not, is a reflection of the change in focus of health care generally from cure to prevention and health promotion. Although this is probably of more importance to some of the new professions newly coming into statutory regulation due to the nature of their work, it is also increasingly important for existing professions as the focus of their work changes in line with modern developments.

Q25 Do you support having as a main objective for the Health Professions Council a provision giving greater emphasis to the importance of public protection?

Duty to consider the interests of stakeholders and duty of co-operation

6.7. This amendment replaces article 3(5).

6.8. The change to article 3(5)(a) is linked to the change to the main objective of the Health Professions Council and emphasises the need for the Council to have proper regard to the interests of persons using or needing the services of registrants and to the differing interests of different categories of registrants.

6.9. The White Paper highlighted the need to ensure closer co-operation and co-ordination between regulatory bodies and employers. As with other areas, the legislation covering each of the regulators is different. Some of the regulators already have a duty of co-operation and/or a duty to consider the interests of stakeholders. There is a lack of clarity and it is therefore necessary to embed a standard duty to consider the interests of stakeholders and a duty of co-operation, in so far as is appropriate and reasonably practicable, with key stakeholders with an interest in the work of the regulator. In particular, this includes

- Employers
- Education and training providers
- Health service providers
- Other regulators

6.10. Some of these have traditionally been seen as weak areas for engagement by regulators, so that professional regulation has not always been developed in the most appropriate way. The current health system reforms will make stronger links between systems regulators and professional regulators and this will be supported by a corresponding duty on regulators.

6.11. Most regulators, especially those that have been subject to recent reforms (such as the HPC), already have some provisions regarding co-operation with key stakeholders. The existing legislation is, however varied in its terminology and requirements and this has led to some concerns amongst service providers, managers, employers and registrants who have found the different approaches confusing.

6.12. The amendment to article 3(5)(b) therefore makes clear that the Health Professions Council should co-operate wherever reasonably practicable with persons concerned with

- The employment of registrants
- The education and training of registrants
- The regulation of, or the co-ordination of the regulation of, other health or social care professions
- The regulation of health services
- The provision, supervision or management of health services

6.13. The amendment will ensure a consistent approach across the health care professional regulators.

Q26 Do you agree that these duties will improve the co-operation and co-ordination between the HPC and key stakeholders?

Constitution

6.14. This amendment replaces paragraph (8) of Article 3 making provision for the Health Professions Council to be constituted as provided for by an order of the Privy Council. This is linked to more substantial amendments of schedule 1 to the Health Professions Order (see paragraphs 6.37 to 6.42)

Amendment of paragraph (17) of article 3

6.15. This is a minor amendment to make clear that the recommendations of the Council concerning any profession which it considers should be regulated, should be made to the Secretary of State for Health and to Scottish Ministers.

Amendment of Article 13

6.16. This is linked to the introduction of statutory regulation of registered psychologists by the Health Professions Council (see Section 3)

Amendment of Article 22

Safeguarding Vulnerable Groups

6.17. The amendments proposed will add to the reasons that a person's fitness to practise may be considered impaired

i) the Independent Barring Board including a person in a barred list

ii) the Scottish Ministers including a person in the children's list or the adults' list.

6.18. The explanation of this change is set out in Section 4

Amendment of Article 42

Orders of the Privy Council

6.19. There are a number of ways in which the Privy Council makes legislation. These include:

- Orders made by Her Majesty in Council, sometimes after the draft orders have been approved by both Houses of Parliament (and where appropriate the Scottish Parliament)

- Orders of the Privy Council, which can normally be made by any two members of the Council. Some of these will be required by law to be in a Statutory Instrument, and some of the Statutory Instruments will need to be subject to a Parliamentary procedure which means that they may be annulled by either House of Parliament or the Scottish Parliament.

6.20. The annexed draft Order is an example of the first of these types of Order, an Order in Council. In addition, various provisions exist in the legislation covering the regulatory bodies which allow for the second of these types of Order, an Order of Council to be made. However, there has been no consistency as to when Privy Council Orders have been required for approving regulators rules, or as to which of those Orders need thereafter to be laid before Parliament, or as to when to have an Order in Council rather than an Order of Council. The present picture is simply confused.

6.21. The spotlight has been turned on these inconsistencies because of the changes to the governance arrangements described below (see paras 6.37 to 6.42). The new constitution Order will be an Order of Council, and the opportunity is being taken to rationalise the oversight arrangements for the legislation that the Council makes itself.

6.22. The general principles underpinning the changes are that Orders made by the Privy Council in relation to the overall structure and functions of the Council or which will affect the Human Rights of individual practitioners will (given the importance of these types of legislation) continue to be made by Statutory Instrument and subject to annulment by Parliament and, in the case of rules relating to professions regulated since devolution in Scotland, the Scottish Parliament. Commonly referred to as a negative resolution procedure this means that each statutory instrument must be laid before Parliament but will come into effect unless either House or the Scottish Parliament passes a resolution against it.

6.23. The Scottish Parliament's powers arise in the context of professions regulated since devolution in Scotland – as will be the case, under this Order, for practitioner psychologists, but as is already the case for Operating Department Practitioners. Where they do vote against a set of measures that are for the regulation of these professions, the measures are annulled in their entirety, even if they also contain measures that relate to reserved matters.

6.24. Generally, however, rules or regulations that deal with "process" issues will no longer need to be laid before Parliament. An example of this is rules or regulations that deal with the structure of statutory committees (but these matters will no longer be left simply to standing orders). These types of "process" rules or regulations will however continue to be subject to approval by the Privy Council for the time being. These types of rules or regulations will also continue to be made by statutory instrument and so the drafting of them will continue to be subject to scrutiny by the Parliamentary Joint committee on Statutory Instruments.

6.25. Overall, the intention is to increase the autonomy of the Health Professions Council in dealing with "process" issues whilst at the same time increasing the Parliamentary scrutiny of "outcomes". Part of this strategy is to simplify the process for the HPC to make changes to its internal rules, whilst retaining some scrutiny of their broader public policy issues. It is anticipated that there will be moves towards giving the HPC greater

autonomy over, for example, its internal committee structures later on in the programme of reform.

Q27 Do you agree with the strategy for standardising the order and rule making powers of the HPC, and with the move towards giving it greater flexibility over internal "process" issues?

Amendment of articles 44 and 46

Annual reports, statistical reports and strategic plans

6.26. The Health Professions Council has a number of core functions relating to the protection of the public and maintenance of standards within the professions they regulate. The public, patients and the health professionals themselves must be able to take it for granted that the Council will act dispassionately and without undue regard to any one particular interest, pressure or influence.

6.27. The UK Government believes that to ensure public confidence the professional regulators must be independent in their action and equally importantly be seen to be independent.

6.28. They must be

- independent from Government, insulated from day to day political pressures
- independent from those who employ health professionals and
- independent of health professionals themselves and the organisations that represent them

6.29. All these stakeholders share the commitment to fair regulation of health professionals in the best interest of patients and the public, but they do so from different perspectives or points of view. The ability of the regulators to sit outside those differences and be guided by the role that Parliament has agreed for them on behalf of society is critical to their effectiveness.

6.30. Just as it is Parliament that has agreed the role of professional regulation and conferred statutory duties on the regulatory bodies, it must be to Parliament that the regulators are accountable.

6.31. The legislation covering the various regulatory bodies already makes provision for most of the regulators to prepare annual reports and audited accounts. These provisions, article 46 of the Health Professions Order, will remain unchanged by this Order, except for an updating of the reference to statutory auditors to take account of changes in the Companies Act 2006 and a new provision requiring the Council to send a copy of its

accounts and the auditors report on them to the Auditor General for Scotland. However, the provision with regard to the content of the annual reports will change. It is important to strengthen the accountability of regulators to Parliament, with the move to greater independence from government. Making the regulators more accountable to Parliament will ensure that there continues to be checks and balances on the regulators exercise of their functions, in order to maintain public confidence in the system of regulation.

6.32. The amendments to articles 44 and 46 update the provisions in the Health Professions Order dealing with these issues.

6.33. The Health Professions Council is currently required to produce an annual statistical report alongside or as part of its annual report which it submits to the Privy Council, which in turn lays the report and accounts before the UK Parliament

6.34. These amendments make further provision as to the content of its annual report, requiring HPC not just to produce a statistical report which indicates the efficiency and effectiveness of its fitness to practise procedures but also to describe, in an annual report, the arrangements it has in place to ensure that it adheres to good practice in relation to equality and diversity, thus ensuring that it provides information on how its has monitored the effects of its policies and activities on the diverse range of people they affect.

6.35. The HPC is required to submit a forward look or future strategy document to the Privy Council along with its annual report, which the Privy Council lays before Parliament together with its annual report (and the statistical report, if separate). For ease of reference this has been referred to in the draft Order as a strategic plan. The UK government is continuing to discuss with the HPC and the other regulatory bodies the precise nature and content of such plans, as part of this consultation.

6.36. The draft Order provides for the Privy Council to lay these documents before the Scottish Parliament, as well as the UK Parliament. The Scottish Parliament has been added to this process because the HPC already regulates one (operating department practitioners) and will in due course regulate a second (practitioner psychologists) profession, the regulation of which as regards Scotland is devolved.

Q28 Do you agree that the UK and Scottish Parliaments should play an enhanced role in relation to the monitoring of the Health Professions Council, facilitated by the improved arrangements for notification of information relating to its past and future activities?

Amendment of Schedule 1

Constitution

6.37. The Government firmly believes that the professional regulators must be seen to be independent and impartial in their actions. Doubts based on a perceived partiality have threatened to undermine patient, public and professional trust in a number of the regulators over many decades.

6.38. Over recent years, most of the regulators have made changes to provide greater reassurance that they are even-handed in their deliberations and decisions but their perceived dependence, or attachment to, a particular interest has continued to weaken or threaten confidence in those actions. The constitutions of the regulators are central to these perceptions. Firstly, some are seen to be partial to professionals as they form a majority on their Councils. Secondly, some are seen to be partial because their Councils are thought to be elected to represent the particular interests of health professionals.

6.39. The White Paper therefore proposed that:

- The Councils of the regulatory bodies should have, as a minimum, parity of membership between lay and professional members, to ensure that purely professional concerns are not thought to dominate their work;
- To dispel the perception that Councils are overly sympathetic to the professionals they regulate, council members will be independently appointed; and
- To enable Councils to focus more effectively on strategy and the oversight of their executives, they will become smaller and more board-like, with greater consistency of size and role across the professional regulatory bodies.

6.40. A working group has been established to consider the overall governance arrangements for the regulatory bodies and is expected to report at the end of November 2007. In the meantime, this Order makes amendments to the legislation to allow for the constitutional arrangements for each regulator to be set out in an Order made by the Privy Council.

6.41. The amendments put forward in the annexed draft Order will allow the Privy Council to provide by Order for the numbers of lay and registrant members on the Health Professions Council, their terms of office, arrangements for appointing a chair, and provisions with respect to the suspension or removal of members.

6.42. At present the HPC consists of a number of lay members appointed by the Privy Council (who in practice delegate this task to the Appointments Commission), and a number of registrant and alternate members who are elected by the registrants themselves. In future, all members of the Council will be appointed by the Privy Council (in practice, through Directions by the Appointments Commission). There will no longer be any alternate members, in keeping with the move away from perceived professional bias.

Q29 Do you agree with the new, more flexible arrangements for establishing the constitution of the HPC?

Amendment to paragraphs 13, 17, and 18

Procedure of the Council and committees

6.43. Paragraph 13 is amended to provide for the Council to regulate its procedure and the procedure of its committees (other than its statutory committees) by standing orders, subject to the requirements of legislation. This amendment reduces the need for rules and statutory instruments to be made and approved by the Privy Council, thereby giving greater flexibility to the HPC in respect of its internal procedures.

6.44. Amendments are also made to paragraphs 17 and 18 (which make provision relating to the composition of the statutory committees). At present, the composition of each of the statutory committees is set out in standing orders. In order to achieve consistency across the Regulators, the amendment makes provision for the HPC to provide for this through rules, but with fewer mandatory requirements as to what these must contain in the Order, thereby giving greater flexibility to the Council in delivering its statutory functions.

6.45. Those paragraphs are also amended to allow those rules to make provision for the Council to make arrangements with another body for that body to assist the Council with making appointments to its committees.

6.46. Although each regulatory body has been established with a Council to oversee the work of their organisation, the Council's main focus should be on strategic rather than operational issues. With Councils becoming smaller and more board-like, operational issues are likely to be overseen through the use of committees. All regulators have a number of committees required by legislation but will make use of other committees as and when necessary. In all cases, it is the responsibility of the Council to appoint members of these committees.

6.47. In order to give greater flexibility to the Councils in exercising this function it is proposed by this Order to allow regulatory bodies to arrange with another body for it to assist the regulator with making such appointments. This is a facilitative measure, giving greater flexibility to the Health Professions Council.

Temporary measures pending introduction of new HPC Council

6.48. 13 members of the HPC are appointed by the Council on being elected under the terms of its election scheme. The Council is also required to appoint an alternate member for each registrant member and it does so on the basis that the alternate member is the person who came second in the relevant ballot. Elections are held each year for 1 quarter of the registrant members.

6.49. Amendments elsewhere in this order will change this system so that all members of the Council are appointed by the Privy Council, thus removing the need for registrant members to be elected (see paras 6.37 to 6.42 above). However, it will be some time before the composition of the new Council can be introduced following Parliamentary approval of this Order.

6.50. Under current provisions the HPC are required to elect members each year and the next election will need to be held before a new Council can be appointed. To ensure continuity and stability during this period of change this Order makes a number of temporary measures pending the introduction of the new Council. These amendments

- remove the need for the appointment of an alternate member for a particular registrant member, where this would require the Council to hold a by-election
- extends the terms of office of all members who hold office on 8th July 2008, so that their membership expires on 8th July 2010 or on the coming into force of an Order made by the Privy Council establishing the new Council.

Potential temporary measure if registration of registered psychologists is introduced before the reform of the composition of the HPC

6.51. These amendments are included in the draft order annexed to this document in preparation for the statutory regulation of psychologists. At present, the Council must have at least one registrant member and one alternate member from each part of the register. When the statutory regulation of psychologists is introduced there will be an additional part to the register maintained by the HPC. Under the terms of the present legislation therefore there will need to be a change in the number of registrant and alternate members of the Council and this is provided for in the draft order.

6.52. However, the draft order also proposes to change the constitution of the HPC (see paras 6.37 to 6.42 above) to move to a wholly appointed Council. Should the Privy Council make an order under the new article 3(8) before the introduction of the psychologists register these amendments will not be made.

6.53. If the psychologists register is introduced before any change to the constitution of the Health Professions Council, then the membership of the Council will increase in line with these amendments. The terms of office of any member elected or appointed under these revised arrangements will expire 8th July 2010. This is in line with the provisions described at paras 6.48 to 6.50 above.

7 Amendments to the Pharmacists and Pharmacy Technicians Order 2007

Scottish Pharmacy Technicians

7.1. The draft order annexed to this document makes a number of amendments to the Pharmacists and Pharmacy Technicians Order to include Scottish pharmacy technicians within its scope. This will enable full Great Britain coverage of regulation of this profession in line with the policy intention originally described in the consultation document "Pharmacists and Pharmacy Technicians Order 2006: A Paper for consultation".

7.2. A number of minor and consequential amendments are made to other legislation.

Amendment of Article 4

Main aim and objective

7.3. Statutory regulation provides a system enforced by law, which sets down:

- Standards of competence for a profession
- Standards of education and training by which people may meet these,
- A register of those competent, with protected titles which may be used only by those registered, and
- A system to investigate, and if necessary prevent or restrict practice by registrants who become unfit to practise.

7.4. The main purpose of statutory regulation is to protect the health, safety and well-being of people using or needing the services of registered professionals. As indicated above one of the reasons for statutory regulation is to ensure proper standards that are necessary for the safe and effective practice of a particular profession.

7.5. In recent years, the opportunity has been taken, progressively, to give each of the regulators a main objective focusing instead on patient protection. However, the legislation covering each regulator had slightly different wording, leading to a lack of clarity of the role of professional regulation as a whole.

7.6. It is therefore proposed that each regulator should have as its main aim and objective a version of the following:

"The main objective of the Society in exercising such of its functions as affect the health, safety or well-being of members of the public is to protect, promote and maintain the health, safety and well-being of members of the public, and in particular of those

members of the public who use or need the services of registrants, by ensuring standards which the Society considers are necessary for the safe and effective practice of their professions"

7.7. By making it clear that public protection, linked to ensuring standards for safe and effective practice, is the main objective of the Society, it is intended to emphasise its importance as the main focus of regulation and to steer regulators further towards public interest overriding that of registrants.

7.8. The Pharmacists and Pharmacy Technicians Order 2007 included a similar main objective, but it did not refer to "well-being". Including "well-being" of the public in this objective is a reflection of the change in focus of health care generally from cure to prevention and health promotion. This is increasingly important for health care professions as the focus of their work changes in line with modern developments

Q30 Do you support having, as a main objective of the Society, a provision giving due emphasis to the importance of public protection and greater emphasis to well-being?

Duty to consider the interests of stakeholders

7.9. The White Paper highlighted the need to ensure closer co-operation and co-ordination between regulatory bodies and employers. It is necessary to embed a standard duty of co-operation, in so far as is appropriate and reasonably practicable, with key stakeholders with an interest in the work of the regulator. In particular, this includes

- Employers
- Education and training providers
- Health service providers
- Other regulators

7.10. Some of these have traditionally been seen as weak areas for engagement by regulators, so that professional regulation has not always been developed in the most appropriate way. The current health system reforms will make stronger links between systems regulators and professional regulators and this will be supported by a corresponding duty on regulators.

7.11. Most regulators, especially those that have been subject to recent reforms (including the Society) already have some provisions regarding co-operation with stakeholders. The existing legislation is however varied in its terminology and requirements and this has led to some concerns amongst service providers, managers, employers and registrants who have found the different approaches confusing.

7.12. The amendments to article 4(2) are part of a process of ensuring that there will be a consistent approach between the health care professional regulators.

Q31 Do you agree that these duties will improve the co-operation and co-ordination between professional regulators and key stakeholders?

Amendment of Article 6

Annual reports etc

7.13. The Royal Pharmaceutical Society of Great Britain (the Society) has a number of core functions relating to the protection of the public and maintenance of standards within the professions they regulate. The public, patients and the health professionals themselves must be able to take it for granted that the Society will act dispassionately and without undue regard to any one particular interest, pressure or influence.

7.14. The UK Government believes that to ensure public confidence the professional regulators must be independent in their action and equally importantly be seen to be independent.

7.15. They must be

- independent from Government, insulated from day to day political pressures
- independent from those who employ health professionals and
- independent of health professionals themselves and the organisations that represent them.

7.16. All these stakeholders share the commitment to fair regulation of health professionals in the best interest of patients and the public but they do so from different perspectives or points of view. The ability of the regulators to sit outside those differences and be guided by the role that Parliament has agreed for them on behalf of society is critical to their effectiveness.

7.17. Just as it is Parliament that has agreed the role of professional regulation and conferred statutory duties on the regulatory bodies, it must be to Parliament that the regulators are accountable.

7.18. The legislation covering the various regulatory bodies already makes provision for most of the regulators to prepare annual reports. However, as with other aspects of the legislation, the requirements on the regulators are varied and there is no common process for making such reports available to Parliament. It is important to strengthen the accountability of regulators to Parliament, with the move to greater independence from government. Making the regulators accountable to Parliament will ensure that there will continue to be checks and balances on the regulators exercise of their functions, in order to maintain public confidence in the system of regulation.

7.19. The amendments to article 6 update the provisions in the Pharmacists and Pharmacy Technicians Order dealing with these issues.

7.20. The Society is currently required to produce an annual report, together with a statistical report (alongside or as part of its annual report) about its fitness to practise arrangements, which it submits to the Privy Council, which in turn lays the report before the UK Parliament.

7.21. These amendments make further provision as to the content of these reports, requiring the Society not just to produce a statistical report which indicates the efficiency and effectiveness of its fitness to practise procedures but also to describe the arrangements the Society has in place to ensure that they adhere to good practice in relation to equality and diversity, thus ensuring that it provides information on how it has monitored the effects of its policies and activities on the diverse range of people they affect.

7.22. The Society will also be required to submit a forward look or strategy document to the Privy Council along with its annual report. For ease of reference this has been referred to in the draft Order as a strategic plan. The UK Government is continuing to discuss with the RPSGB and the other regulatory bodies the precise nature and content of such plans, as part of this consultation.

7.23. The Privy Council will lay both the annual report (and the statistical report, if separate) and the strategic plan before the UK and Scottish Parliaments. The involvement of the Scottish Parliament arises because the regulation of pharmacy technicians is a devolved matter as regards Scotland.

Q32 Do you agree that the UK and Scottish Parliaments should play an enhanced role in relation to the monitoring of the RPSGB, facilitated by the improved arrangements for notification of information relating to its past and future activities?

New articles 19A and 31A, amendment of article 30

Temporary registration and annotations during emergencies involving loss of human life or human illness etc

7.24. The new article 19A makes provision to allow the Registrar of the Royal Pharmaceutical Society of Great Britain to register a person or specified group of persons (for example, recently retired pharmacists or some pharmacy technicians) as a registered pharmacist or registered pharmacists in part 1 of the Register of Pharmacists. The powers are linked to circumstances where an emergency, for the purposes of the Civil Contingencies Act 2004, has occurred, is occurring or is about to occur. These measures are essentially reserve powers which are being placed on the statute book to provide options in the event of a major emergency threatening or causing widespread loss of human life, for example because of pandemic influenza.

7.25. The Registrar may register a person in these circumstances where he considers that the person (or specified group of persons) is a fit, proper and suitably experienced person to be registered in the practising part of the register during the emergency. He may also make the registration subject to conditions.

7.26. The Registrar must revoke such registration when advised by the government that the circumstances that gave rise to the need for registration have ended. He may also revoke the registration at any time, including where he has grounds for suspecting that the person's fitness to practise may be impaired.

7.27. New article 31A makes similar provision for the Registrar to annotate the entry of a person or category of persons in the Register of Pharmacists to indicate that he is qualified to order drugs, medicines and appliances. Annotations must be removed when the circumstances that gave rise to the need for the annotations have ended, and may be removed by the Registrar at any time, including where he has grounds for suspecting that the person's fitness to practise may be impaired.

7.28. Article 30 is amended to allow for Rules to distinguish those registered, or whose entry has been annotated under the new provisions, from other registered pharmacists, or annotations of registered pharmacists.

7.29. These amendments are intended to ensure that drugs, appliances etc can continue to be ordered and supplied during an emergency which may well be affecting the pharmacy profession as well as the general public. In the case of a shortage of prescribers who can prescribe prescription only medicines, one option is to increase the number of prescribers, but it is possible that the legal difficulties resulting from the restrictions in medicines legislation will be addressed instead by temporary easements to those restrictions. The emphasis at this stage is on creating flexibility – making sure that there are legal options available in the event of an emergency, and so reducing the volume of emergency legislation that would need to be passed in such circumstances.

7.30. This is a purely precautionary action and does not reflect any reassessment of the likelihood of the powers in the Civil Contingencies Act 2004 needing to be used. It is part of a wider programme of Government action on looking at how best to deal with civil emergencies.

Q33 Do you agree that the RPSGB should be given reserve powers to register suitably experienced people, and allow additional pharmacists to act as prescribers, during an emergency?

Amendment of articles 39 and 55

Continuing Professional Development

7.31. The Society is required under article 7 of the Pharmacists and Pharmacy Technicians Order (the statutory committees) to have an Education Committee and a Continuing

Professional Development Committee. The PPTO is not specific on the functions to be carried out by either committee.

7.32. There is some concern that there is a great deal of overlap between the work which is now proposed for these two committees. Both are now proposed to be casework committees with neither responsible for policy making as originally anticipated in the PPTO, and it has been suggested that it may be more efficient and economic for there to be only one committee to deal with all education and training-related casework.

7.33. These amendments therefore are intended to give the Society greater flexibility in making arrangements for the delivery of its functions in relation to education and continuing professional development. The powers are permissive and it will be up to the Society to decide if it will seek to use them.

Amendment of article 69

Orders of the Privy Council

7.34. There are a number of ways in which the Privy Council makes legislation. These include:

- Orders made by Her Majesty in Council, sometimes after the draft orders have been approved by both Houses of Parliament (and where appropriate the Scottish Parliament)
- Orders of the Privy Council, which can normally be made by any two members of the Council and will be signed by the Clerk to the Council. Some of these will be required by law to be in a Statutory Instrument, and some of the Statutory Instruments will need to be subject to a Parliamentary procedure which means that they may be annulled by either House of Parliament or the Scottish Parliament.

7.35. The annexed draft Order is an example of the first of these types of Order, an Order in Council. In addition, various provisions exist in the legislation covering the regulatory bodies which allow for the second of these types of Order, an Order of Council to be made. However, there has been no consistency as to when Privy Council Orders have been required for approving regulators' rules, or as to which of those Orders need thereafter to be laid before Parliament, or as to when to have an Order in Council rather than an Order of Council. The present picture is simply confused.

7.36. The spotlight has been turned on these inconsistencies because of the changes to the governance arrangements for most of the Regulators, including the General Dental and Health Professions Councils described above (see paras 5.39 and 6.37), although the Society is not included in this process of governance changes because of the pending establishment of the new General Pharmaceutical Council. Nevertheless, the opportunity is being taken to rationalise the oversight arrangements for the legislation that the Society's Council, like the other Regulators' Councils makes.

7.37. The general principles underpinning the changes across all the Regulators are that Orders made by the Privy Council

- in relation to the overall structure and functions of the Council (for example a "constitution" order made under the new article 3(8) of the Health Professions Order); or
- which will affect the Human Rights of individual practitioners (for example proceedings before the Society's Health and Disciplinary Committees)

will (given the importance of these types of legislation) continue to be made by Statutory Instrument and subject to annulment by Parliament and, in the case of rules relating to professions regulated since devolution in Scotland, the Scottish Parliament. Commonly referred to as a negative resolution procedure this means that each statutory instrument must be laid before Parliament but will come into effect unless either House or the Scottish Parliament passes a resolution against it.

7.38. The Scottish Parliament's powers arise in the context of professions regulated since devolution in Scotland, such as pharmacy technicians. Where they do vote against a set of measures that are for the regulation of pharmacy technicians, the measures are annulled in their entirety, even if they also contain measures that relate to reserved matters.

7.39. Generally, however, rules or regulations that deal with "process" issues will no longer need to be laid before Parliament, although in the case of the RPSGB, many of the necessary changes were made in 2007 and so this represents less of a change than for other regulators. An example of this type of "process" issue is rules or regulations that deal with the form and keeping of the statutory registers, and applications for entries, alterations and corrections to them. However, these types of rules or regulations will also continue to be made by statutory instrument and so the drafting of them will continue to be subject to scrutiny by the Parliamentary Joint Committee on Statutory Instruments.

7.40. Some matters are simply left to the regulators to determine themselves, even if the framework for them is to be set out in rules or regulations. The one set of Rules that falls into this category, in the Society's case, is the fees that it charges, but in due course, it is anticipated that the General Pharmaceutical Council will have further flexibilities.

7.41. Overall, the intention is to increase the autonomy of the Society, and in due course the General Pharmaceutical Council in dealing with "process" issues whilst at the same time increasing the Parliamentary scrutiny of "outcomes". Part of this strategy is to simplify the process for the Society to make changes to its internal rules, whilst retaining some scrutiny of its broader public policy issues

Q34 Do you agree with the strategy for standardising the order and rule making powers of the regulators, and with the move towards giving the Society, and in due course the General Pharmaceutical Council, greater flexibility over internal "process" issues?

8 Consultation and next steps

The process for consultation and making of the Order

8.1. This draft Order is published under paragraph 9 (1) and (3) of schedule 3 to the Health Act 1999. Following consultation, UK and Scottish Health Ministers may wish to make some amendments to the draft Order before it is laid before the UK Parliament and the Scottish Parliament with a report on the consultation. The report about the consultation will also be posted on the Department of Health's website.

8.2. The Order is subject to the affirmative procedures under which it must be the subject of debates in the Scottish Parliament and both Houses of the UK Parliament. Subject to approval of the Scottish Parliament and both Houses, the Order will be presented to Her Majesty in Council for the Order to be made.

8.3. Individuals and organisations are therefore invited to submit comments on any issues dealt with in the draft Order.

8.4. Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes. The relevant legislation in this context is the Freedom of Information Act 2000 (FOIA) and the Data Protection Act 1998 (DPA)

8.5. If you want the information that your provide to be treated as confidential, please be aware that, under the FOIA, there is a Statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

8.6. The Department will process your personal data in accordance with the DPA and in most circumstances this will mean that your personal data will not be disclosed to third parties.

8.7. This consultation is being run in accordance with the Cabinet Office Code of Practice on Consultations (reproduced at Annex B). If you have any comments or complaints about the consultation process please write to:

Consultations Coordinator
Department of Health
Room 2N16
Quarry House
Quarry Hill

Leeds
LS2 7UE

Email: Mb-dh-consultations-coordinator@dh.gsi.gov.uk

Replies to public consultation

8.8. Responses to this document should be received no later than 22 March 2008. Please respond using the question template provided on the website as this will directly submit your response onto our analysis database. This will allow us to analyse your response quickly and accurately. If you cannot access the question template, please email the address below or write to us and we will send a template and/or the consultation document to you. If you email your response to us please do not send a duplicate hard copy.

8.9. This document is available on the Department of Health website at http://www.dh.gov.uk/consultations/liveconsultations

8.10. You can respond via the website or by email to professionalregulations1@dh.gsi.gov.uk. You may also respond in writing to:

Healthcare Professions Order Consultation
Department of Health
Room 2N12
Quarry House
Quarry Hill
Leeds
LS2 7UE

8.11. Attachments to emails should be in Microsoft Word or rich text format only please.

8.12. Please indicate whether you are replying as an individual or on behalf of an organisation or group of people. Your response may be made public, but if you prefer it to remain private please make this clear in your reply.

8.13. The proposed legislation will extend to the whole of the United Kingdom. If you wish to copy your response to the devolved administrations their addresses are:

Scotland

Catherine Clark
Scottish Executive
Regulation Unit
Scottish Government Health Directorate
St Andrews House
Edinburgh
EH1 3DW

Tel: 0131 244 1715

Email: Catherine.clark @scotland.gsi.gov.uk

Wales

Barbara Bale
National Assembly for Wales Health Department
Crown Buildings
Cathays Park
Cardiff
CF10 3NQ

Tel: 02920 826754

Email: Barabara.bale@wales.gsi.gov.uk

Northern Ireland

Joyce Cairns
Dept of Health, Social Services and Public Safety
Workforce Planning
Stormont Estates
Belfast
BT4 3SG

Tel: 02890 520500

Email: joyce.cairns@dhsspsni.gsi.gov.uk

ANNEX A

The seven domains of psychology practised by practitioner psychologists

Clinical psychologists:

1) Clinical psychology involves the application of psychology to health and community care. Clinical psychologists work in specialties. The most common are:
    a. adult mental health services (including a range of psychological therapy services);
    b. adult mental health rehabilitation and resettlement services;
    c. child health care (including paediatric and child and family mental health services);
    d. services for people with learning disabilities, care of elderly people (including geriatric and psycho-geriatric services);
    e. primary care services, management (including advising purchasers, and consultancy on health care systems);
    f. general hospital acute services (including acute medical and surgical specialties);
    g. neuropsychology (including neurological and neurosurgical services and neuropsychological rehabilitation), following additional specialist training;
    h. services concerned with substance abuse (including those for people with alcohol and drugs problems);
    i. forensic services;
    j. services for people with physical and sensory disabilities (including young disabled people and those described as 'the chronic sick'); and
    k. HIV/AIDS services.
2) Clinical psychologists also work in educational and social service settings. Clinical psychologists work directly with complex problems involving individuals, couples, families, groups and service systems. Consultancy and training is provided to carers and health-care professionals to maximize the use of their psychological skills.
3) Organisational consultancy is carried out with provider and purchaser organisations on the psychological aspects of health and community care.
4) There are currently 4,751 clinical psychologists registered as chartered Clinical Psychologists with the BPS.

Counselling psychologists

5) Counselling psychologists work therapeutically with clients with a variety of problems (for example, the effects of childhood sexual abuse, relationship breakdown, domestic violence, major trauma) and/or symptoms of psychological disorder (such as anxiety, depression, eating disorders, post-traumatic stress disorder, or psychosis). They offer an active collaborative relationship which can both facilitate the exploration of underlying issues and can empower people to confront change.

6) Counselling Psychologists work in NHS services (including primary care, Community Mental Health Teams, tertiary settings for psychiatric in-patients, specialist services for older adults, those with eating disorders, personality disorders, learning difficulties, and in general health care settings where psychological services are offered); in prison and probationary services, social services, voluntary organisations, employee assistance programmes (EAPs), occupational health departments, student counselling services and in independent practice. They may work with individuals, couples, families or groups.

7) Some of the most common activities of counselling psychologists include the provision of psychological therapy.

8) This involves:

   a. assessment, whereby the psychologist seeks to gain an understanding of the difficulties from the client's perspective, taking into account the wider context;

   b. developing a psychological explanation of how and why the particular difficulties have arisen and are experienced by the client;

   c. planning and implementing a course of psychological therapy; and

   d. evaluating the outcome of the therapy;

   e. management of services in the NHS, public and private sectors;

   f. supervision and training of other counselling psychologists, applied psychologists, psychology assistants and related professionals;

   g. multidisciplinary team work and team facilitation;

   h. service and organisational development;

   i. audit and evaluation;

   j. research and development.

9) Counselling psychology is a relatively new discipline of applied psychology and there are comparatively few such practitioners at present and, at the last count, 821 were registered with the BPS as Chartered Counselling Psychologists.

Educational Psychologists

10) **Educational psychologists:** are applied psychologists working both within the educational system and in the community. They are concerned with children's learning, well-being and development. They have skills in a range of psychological and educational assessment and intervention techniques and methods for helping children and young people who are experiencing difficulties in learning or social adjustment. They are involved in trying to help prevent children's learning, social, emotional and behavioural difficulties where this is possible and ameliorating them where it is not. They have a central role in the assessment and intervention work in relation to children's difficulties from an early stage. They have a statutory role under current educational legislation in the assessment of children's Special Educational Needs. Under Scottish legislation, educational psychologists also have a statutory role with respect to the Children's Hearing System. They have a role and function in improving or optimising the learning and development of all children. Much of the work of educational psychologists is with children and young people from 0-19 years in different educational contexts though they also work extensively with parents/carers, teachers and other professionals. They offer a service to young people and adults in further and higher education. Educational psychologists work with and within systems, applying different psychological knowledge and skills as appropriate at an individual, group or organisational level. Some of their work will be with individuals or with groups of children; other work is with adults in institutions and organisations.

11) Most educational psychologists in the UK work within the public sector and every parent/carer and child and all state-maintained schools are entitled to access to their service. A number of educational psychologists work in private practice and take direct referrals from parents, schools, doctors and others. These educational psychologists usually work outside the school system as sole practitioners or as members of a private service. Although much of their work is with individual clients and families, educational psychologists offer consultation and research to groups and institutions, particularly schools. This includes staff training and development, systems analysis and evaluation.

12) They are employed in both the public and private sector. There are over 2,500 educational psychologists in the UK of whom 1,360 at the last count, were registered as Chartered Educational Psychologists with the BPS. This figure includes 252 Scottish educational psychologists.

Forensic psychologists:

13) Forensic psychology involves the application of psychology across the Criminal and Civil justice systems, ranging from crime prevention through to the rehabilitation and resettlement of offenders in the community. Forensic psychologists undertake assessment and intervention work with a range of clients across forensic settings. These include:

    a) National Offender Management services in both prisons and community settings

b) Forensic mental health settings including high security psychiatric hospitals, medium secure settings and community services, including rehabilitation and resettlement services
c) Young Offender Institutions and Prison primary and secondary healthcare services
d) Social care settings including adult mental health and children's services
e) Services for people with learning disabilities at risk of offending
f) Services for people with substance abuse problems
g) The Criminal courts
h) The Civil courts
i) The Family courts
j) Children's panels

14) Forensic psychologists may also operate in social services and educational settings where they will work directly with complex problems using a variety of psychological approaches. This includes individual and family based assessments and interventions, group based assessments and interventions and consultancy and training with a range of staff across criminal and civil justice.

15) Organisational consultancy work is carried out with a range of stakeholders across criminal and civil justice fields.

16) There are approximately 764 forensic psychologists registered with the BPS. The number of forensic psychologists has increased very markedly in recent years. The provision of training places funded by the Home Office has increased by over 10% per year for the past 5 years.

Health Psychologists:

17) Health psychology provides an integrated biological, psychological and social approach to the understanding of physical health and illness. It is the practice and application of psychological research to the prevention, treatment and management of disease, promoting and maintaining health, identifying key factors in the causation of illness, the improvement of the health care system and with a direct involvement in health policy formulation. The health psychology training in advanced health methods and statistics underpins their scientist-practitioner approach to clinical practice and enables them to provide expert advice and consultancy.

18) Health psychologists work from a strong, multidisciplinary research base and are trained to create and use evidence to benefit physical health, as in the evaluation of new treatments in clinical trials, e.g. the self-management of arthritis. Such interventions are used to address some of the management problems of chronic physical conditions, e.g. adherence in diabetes. They are also designed to change lifestyles by modifying risk factors with the aim of preventing major illnesses like coronary heart disease, renal failure, lung and bowel cancers. Health psychologists can provide new psychological methods to assess and improve health and health care, e.g. quality of life measures for trials, audit and clinical governance. They work in primary care, health promotion and public health, as well as in secondary and tertiary care settings.

19) Psychological principles in health often apply to the management of a range of disease groups, e.g. in pain management, rather than limiting them to a single medical speciality. Health psychologists work with adults and children in families, institutions, communities, organisations and populations, e.g. preventing teenage pregnancy. They use special methods and theory to design, implement and evaluate health promotion and education interventions, e.g. in smoking cessation, exercise uptake and dietary control. They are employed to teach lifestyle skills to patients and also to train other health professionals in psychological care. Health psychologists are engaged with the delivery of health care and have analytical skills that are valued in health management, administration and policy formation. At an organisational level, they might be working on staff development, audit or how best to promote the implementation of clinical guidelines.

20) Like public health officials, health psychologists can provide a strategic overview of factors influencing the health of the general population. There were, at the last count, 649 Chartered Health Psychologists registered with the BPS.

Occupational psychologists:

21) Occupational psychologists apply psychological knowledge, theory and practice to work in its widest sense. How work tasks and the conditions of work can affect people - developing them or constraining and stressing them - and also with how people and their characteristics determine what and how work is done. Some of the broad areas are, for example:

a) management and management development;

b) change management;

c) organisational structure and development;

d) training and development;

e) team development;

f) career guidance, coaching and counselling;

g) stress, well-being and work-life balance;

h) rehabilitation and vocational rehabilitation;

i) unemployment;

j) new technologies such as e-learning, portfolio working and virtual team working;

k) how people's environment affects their work (ergonomics);

l) development and interpretation of psychometric instruments;

m) recruitment and selection.

22) Some occupational psychologists specialise in specific areas, such as personnel selection and recruitment, vocational rehabilitation, training and development, or how the environment in which people work affects them.

23) Occupational psychologists work in-house for some organisations, or provide their expertise via occupational or business psychology companies/consultancies, or work in the academic field.

24) They apply their knowledge and expertise to identify and resolve organisational issues, bringing with them an appreciation of the global, organisational, team and individual levels of working. Occupational psychologists have expertise in organisations, culture and climate, structure and values.

25) There were, at the last count, 1,395 Chartered Occupational Psychologists registered with the BPS.

Sport and Exercise Psychology

26) Sport and exercise psychologists apply psychology as a science in:

a) sport, both competitive and non-competitive, at individual and team level;

b) the exercise domain, encompassing individual and group training for health, fitness and enjoyment: and

c) the field of motor skill research and human performance

27) Sport psychologists may be involved in scientific research or practical, applied work into psychological aspects of sport, exercise and human performance.

28) The science of psychology can be applied to a whole range of sporting activities including educational, information and research services to teachers, coaches, trainers, clubs, groups and individual participants in sport and exercise.

Sports and Exercise psychology was accepted as a separate sub-discipline within the BPS in April 2004. There are 128 sport and exercise psychologists currently registered with the BPS.

ANNEX B

Code of Practice of Consultation

The six consultation criteria

- Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at lease once during the development of the policy
- Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses
- Ensure that your consultation is clear, concise and widely accessible
- Give feedback regarding the responses received and how the consultation process influenced the policy
- Monitor your department's effectiveness at consultation, including through the use of a designated consultation coordinator

Ensure your consultation follows better regulation best practice, including carrying out an Impact Assessment if appropriate

Annex C

Summary of Consultation Questions

Practitioner Psychologists

Q1. Do you agree that practitioner psychologists should be statutorily regulated?

Q2. Do you agree that psychologists and teachers working exclusively in the furtherance of psychological knowledge should not be statutorily regulated as practitioner psychologists?

Q3. Do you agree that others who deliver psychological therapies should not be dealt with in this Order but should be statutorily regulated in a future Order when standards appropriate to their roles have been agreed?

Q4. Do you agree that all seven domains should be statutorily regulated by HPC? If not, which domains should not?

Q5 Do you agree with the descriptions of the seven domains in Annex B? If not, what alterations would you recommend?

Q6. Do you agree that holders of BPS practising certificates who do not meet the full range of competences for one of the seven domains of psychology practice should be eligible for HPC registration and continuing practice only if they demonstrate they meet HPC standards for safe and effective practice, undergoing additional training if necessary?

Q7. Do you agree that standards to protect the public should cover conduct, competences and education and training?

Q8. Do you agree that practitioner psychologists should need to have at least three years' undergraduate education in psychology accredited by the BPS for the Graduate Basis for Registration plus three years or equivalent postgraduate education and training?

Q9. Do you agree that partnership working between HPC, the profession and the public is the right way to design standards of proficiency for this profession?

Q10. Do you agree that standards of proficiency, education and training should be derived from competences necessary for safe and effective practice?

Q11. Do you agree that the regulator should have discretion as to how it obtains professional expertise to carry out professional education accreditation?

Q12. Do you agree that some academic and research psychologists should be allowed to use protected titles without committing an offence?

Q13. Do you agree with the proposed protected titles? If not, what others would you suggest?

Safeguarding Vulnerable Groups

Q14. Do you agree with adding appearance on a barred list to the grounds for which a health professional's fitness to practise should be considered to be impaired?

Q15. Do you agree with the proposed set of changes to the Safeguarding Vulnerable Groups Act 2006?

Q16. Do you agree with the proposed supplementary measures relating to the Protection of Vulnerable Groups (Scotland) Act 2007?

Amendments to the Dentist Act 1984

Q17. Do you support having, as a main objective for the General Dental Council, as with other regulators, a provision giving greater emphasis to the importance of public protection?

Q18. Do you agree with the requirement that GDC should have proper regard for the interests of people using or needing the services of dentists and dental care professionals, and proper regard for the differing interests of different categories of their registrants?

Q19. Do you agree that the GDC should have the option of engaging other bodies to assist it with these appointment functions?

Q20. Do you agree that the changes to these duties will improve the co-operation and co-ordination between professional regulators and key stakeholders?

Q21. Do you agree that Parliament should play an enhanced role in relation to the monitoring of the General Dental Council, facilitated by the improved arrangements for notification of information relating to its past and future activities?

Q22. Do you agree that the GDC, in common with all regulators of health care professionals, should be under a legal duty to maintain a register of the private interests of its members?

Q23. Do you agree with the strategy for standardising the order and rule making powers of the GDC, and with the move towards giving it greater flexibility over internal "process" issues?

Q24. Do you agree with the new, more flexible arrangements for establishing the constitution of the GDC

Amendments to the Health Professions Order 2001

Q25. Do you support having as a main objective for the Health Professions Council a provision giving greater emphasis to the importance of public protection?

Q26. Do you agree that these duties will improve the co-operation and co-ordination between the HPC and key stakeholders?

Q27. Do you agree with the strategy for standardising the order and rule making powers of the HPC, and with the move towards giving it greater flexibility over internal "process" issues?

Q28. Do you agree that the UK and Scottish Parliaments should play an enhanced role in relation to the monitoring of the Health Professions Council, facilitated by the improved arrangements for notification of information relating to its past and future activities?

Q29. Do you agree with the new, more flexible arrangements for establishing the constitution of the HPC?

Amendments to the Pharmacists and Pharmacy Technicians Order

Q30. Do you support having, as a main objective of the Society, a provision giving greater emphasis to the importance of public protection and well-being?

Q31. Do you agree that these duties will improve the co-operation and co-ordination between professional regulators and key stakeholders?

Q32. Do you agree that the UK and Scottish Parliaments should play an enhanced role in relation to the monitoring of the Health Professions Council, facilitated by the improved arrangements for notification of information relating to its past and future activities?

Q33. Do you agree that the RPSGB should be given reserve powers to register suitably experienced people, and allow additional pharmacists to act as prescribers, during an emergency?

Q34. Do you agree with the strategy for standardizing the order and rule making powers of the Society, and with the move towards giving it greater flexibility over internal "process" issues?

Annex D

Consultation draft: December 2007

Draft Order in Council laid before Parliament under section 62(10) of the Health Act 1999, for approval by resolution of each House of Parliament and of the Scottish Parliament.

DRAFT STATUTORY INSTRUMENTS

2008 No. 000

HEALTH CARE AND ASSOCIATED PROFESSIONS

HEALTH PROFESSIONS, DENTISTS, PHARMACISTS

The Health Care and Associated Professions (Miscellaneous Amendments) (No. 2) Order 2008

Made - - - - 2008

Coming into force in accordance with article 1(2) and (3)

At the Court at Buckingham Palace, the day of 2008

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(4) of, and Schedule 3 to, the Health Act 1999(**a**).

The Secretary of State 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) (No. 2) Order 2008.

(**a**) 1999 c.8.

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

(a) this article and articles 2 and 7 to 9;

(b) in Schedule 1, paragraphs 1, 3 5 and 6, and article 3(1) in so far as it relates to those paragraphs;

(c) in Schedule 2, paragraphs 1(a), 8 and 11, and article 3(2) in so far as it relates to those paragraphs;

(d) in Schedule 3, paragraphs 2, 3(a) to (c), 4(b), 5, 6, 11 to 14, 17(a)(ii), 19(a) and 22, and article 3(3) in so far as it relates to those paragraphs; and

(e) in Schedule 4, paragraph 6, and regulation 4 in so far as it relates to that paragraph.

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

(4) Except as provided for by paragraph (2) or (3), the provisions of this Order shall come into force on such days as the Secretary of State, having consulted the Scottish Ministers, may specify.

(5) Different days may be specified under paragraph (4) for different purposes.

(6) The Secretary of State shall notify any day specified and, if different purposes are specified, the purposes for which it is specified in the London, Edinburgh and Belfast Gazettes at least one week before that day.

(7) Subject to paragraph (8), this Order extends to England and Wales, Scotland and Northern Ireland.

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

Interpretation

2. In this Order—

"the 2007 Act" means the Protection of Vulnerable Groups (Scotland) Act 2007(**a**);

"the 2001 Order" means the Health Professions Order 2001(**b**);

"the 2007 Order" means the Pharmacists and Pharmacy Technicians Order 2007(**c**);

"AEP" means the Association of Educational Psychologists(**d**);

"AEP register" means the aggregate of the entries in the membership list maintained by the AEP that relate to full membership of the AEP;

"appointed day for registered psychologists" means the day on which the definition of "relevant profession" in paragraph 1 of Schedule 3 to the 2001 Order is amended by virtue of paragraph 10(c) of Schedule 2;

"BPS" means the British Psychological Society(**e**);

"BPS register" means the aggregate of the entries in the register maintained by the BPS that relate to holders of practising certificates who are members 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

---

(**a**) asp 14.
(**b**) S.I. 2002/254.
(**c**) S.I. 2007/289.
(**d**) The Association of Educational Psychologists is at 26 The Avenue, Durham, DH1 4ED.
(**e**) The British Psychological Society is at St Andrews House, 48 Princes Road East, Leicester, LW1 7DR.

"the principal measures" means the Act and the Orders amended by virtue of article 3 of this Order.

Amendments to the principal measures

3.—(1) The amendments to the Dentists Act 1984(**a**) set out in Schedule 1 shall have effect.

(2) The amendments to the 2001 Order set out in Schedule 2 shall have effect.

(3) The amendments to the 2007 Order set out in Schedule 3 shall have effect.

Amendments to and revocations of other legislation

4. The amendments to enactments and instruments, and revocations of instruments, set out in Schedule 4 shall have effect.

Provisions relating to the introduction of statutory registration of registered 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 successful introduction of the new arrangements for the statutory regulation of registered 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 registered psychologists are so entered.

(3) Subject to paragraph (6), if on the day before the appointed day for registered psychologists a person's name is included in the BPS register or the AEP register (or both), he shall be registered in the part of the HPC register which relates to registered psychologists with effect from the appointed day for registered psychologists.

(4) If—

(a) the HPC has determined, pursuant to the arrangements with regard to names mentioned in paragraph (2), that a person whose name is entered in the BPS register or the AEP register (or both) is to be entered in the HPC register; and

(b) solely as a consequence of that determination that name has been removed from the BPS register or the AEP register,

then notwithstanding that removal, that person's name is to be entered in the HPC register pursuant to paragraph (3) on the appointed day for registered psychologists (but neither organisation is required to amend its register as a consequence of the transfer of entries to the HPC register) .

(5) If on the appointed day for registered psychologists there is an outstanding application for a person's name to be entered into the BPS register or the AEP register (including an application for restoration to the register), the HPC—

(a) may determine that his name is to be entered in the part of the HPC register which relates to registered psychologists; and

(b) shall dispose of the matter in such manner as it considers just.

(6) If on the appointed day for registered psychologists a person's name is included in the BPS register or the AEP register but his registration is suspended (whether temporarily or permanently) or he is the subject of proceedings which could lead to his removal or suspension from the BPS register or AEP register (or, if either register is closed as a consequence of the opening of the part of the HPC register which relates to registered psychologists, could have lead to his removal or suspension prior to the closure), the HPC—

(a) may determine that his name is not to be entered in the part of the HPC register which relates to registered psychologists; and

---

(**a**) 1984 c.24.

(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 (5), his home address shall not be published in the HPC register without his consent.

(8) The Privy Council may by order provide for the transfer from the BPS or the AEP to the HPC of—

(a) subject to paragraph (9), any person who is, or any class of persons who are, employed under a contract of employment with the BPS or the AEP; and

(b) any property (which for these purposes includes rights and interests of any description), other than premises, or liabilities,

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

(9) No order under paragraph (8)(a) shall provide for the transfer of any person or class of persons in circumstances where, for a reason connected with the transfer, a person—

(a) is or will be unfairly dismissed; or

(b) would, if he terminated his contract of employment, be taken to be unfairly dismissed,

in contravention of his right under section 94(1) of the Employment Rights Act 1996(**a**) (the right not to be unfairly dismissed).

Provisions supplementary to sections 29 and 30 of the 2007 Act

6.—(1) Where section 30(2) of the 2007 Act (notice of listing etc.) applies, the Scottish 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, the Scottish 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 paragraph (1)(b).

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

(a) such details as the Scottish 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 the Scottish Ministers think appropriate.

(4) Where the Scottish Ministers remove an individual from a list under section 29 of the 2007 Act (removal from list), 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).

(5) For the purposes of this article, the following are "relevant health regulatory bodies"—

(a) the General Chiropractic Council;

(b) the General Dental Council;

(c) the General Medical Council;

(d) the General Optical Council;

(**a**) 1996 c.18.

(e) the General Osteopathic Council;

(f) the Health Professions Council;

(g) the Nursing and Midwifery Council;

(h) the Pharmaceutical Society of Northern Ireland; and

(i) the Royal Pharmaceutical Society of Great Britain.

(6) Words and expressions used in this article and section 30 of the 2007 Act bear the same meaning.

Saving provisions

7.—(1) Where rules, regulations or orders have been made under the enabling powers set out in the principal measures, but thereafter, by virtue of an amendment to the principal measures made by this Order—

(a) the enabling powers for the rules, regulations or orders are amended, substituted or repealed, or

(b) the procedure for making or approving the rules, regulations or orders is amended,

paragraph (2) applies.

(2) In the circumstances set out in paragraph (1)—

(a) the rules, regulations or orders remain in force, notwithstanding any amendment of or affecting—

(i) their enabling powers, or

(ii) the procedure for making or approving them; and

(b) earlier measures may be amended or revoked on or after the coming into force of the amendments made by virtue of this Order to or affecting their enabling powers by later amending measures, notwithstanding that the later amending measures are made or approved using different procedures or powers from the earlier measures, and for these purposes—

(i) "earlier measures" means rules, regulations or orders made under the principal measures before the coming into force of article 1; and

(ii) "later amending measures" means rules, regulations or orders made under enabling powers in the principal measures that are amended or affected by amendments made by virtue of this Order.

(3) As the regards the provisions of—

(a) in the Royal Pharmaceutical Society of Great Britain (Registration) Rules 2007(**a**); and

(b) the Royal Pharmaceutical Society of Great Britain (Fitness to Practise and Disqualification etc.) Rules2007(**b**),

which were or included measures for the regulation of pharmacy technicians which did not extend to Scotland, those measures shall extend to Scotland without needing to be remade, even though if they were remade, they would be approved using a different procedure to the procedure under which they were approved.

Transitional, transitory or saving provisions orders

8.—(1) The Privy Council may by order make such other 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—

(**a**) Scheduled to S.I. 2007/441.
(**b**) Scheduled to S.I. 2007/442.

(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;

(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) The power to make an order under paragraph (1) shall be exercisable by statutory instrument.

(4) For the purposes of section 1 of the Statutory Instruments Act 1946(**a**) (definition of "Statutory Instrument"), paragraph (3) shall have effect as if contained in an Act of Parliament.

(5) Any statutory instrument containing an order of the Privy Council under paragraph (1) shall be subject to annulment in pursuance of a resolution of either House of Parliament or, where paragraph (6) applies, a resolution of either House of Parliament or a resolution of the Scottish Parliament.

(6) This paragraph applies where an order of the Privy Council under paragraph (1) that includes measures for the regulation of—

(a) operating department practitioners;

(b) registered psychologists;

(c) pharmacy technicians; or

(d) 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(**b**) did not constitute a class of dental auxiliaries regulated by those Regulations.

Privy Council procedures etc.

9.—(1) The power vested in the Privy Council to make an order under article 5(8) or 8(1) may be exercised by any two or more members of the Privy Council.

(2) Any act of the Privy Council of making an order under article 5(8) or 8(1) shall be sufficiently signified by an instrument signed by the Clerk of the Privy Council.

(3) 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 instrument was duly made; and

(b) the instrument's terms.

Name
Clerk of the Privy Council

(**a**) 1946 c.36; section 1 has been amended by the Government of Wales Act 1998 (c.38), Schedule 12, paragraph 2.
(**b**) S.I. 1986/887.

SCHEDULE 1

Article 2(1)

Amendments to the Dentist Act 1984

Amendment of section 1

1. In section 1(**a**) (constitution and general duties of the Council), after subsection (1) insert the following subsections—

"(1A) The main objective of the Council in exercising such of its functions as affect the health, safety or well-being of members of the public is to protect, promote and maintain the health, safety and well-being of members of the public, and in particular of those members of the public who use or need the services of registered dentists or dental care professionals, by ensuring that registered dentists and dental care professionals adhere to such standards as the Council consider necessary for the safe and effective practice of their professions.

(1B) The Council shall, when exercising their functions under this Act, have proper regard for—

(a) the interests of persons using or needing the services of dentists or dental care professionals in the United Kingdom; and

(b) any differing interests of different categories of dentists or dental care professionals."

Amendment of section 2

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

(a) in subsection (6), for "order of the Privy Council" substitute "rules";

(b) after subsection (6) insert the following subsections—

"(6A) Rules under subsection (6) may make provision for a body (including a committee of the Council) to assist the Council in connection with any function relating to the appointment of members or particular members of the committees (including suspension or removal from office).

(6B) Subject to any provision made by this Act, or by rules under this Act, the committees of the Council mentioned in this section may regulate their own procedures."

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

Amendment of section 2A

3. In section 2A(**c**) (the Council's duty to co-operate), in subsection (2)(d), for "the services provided by the professions regulated under this Act" substitute "the provision, supervision or management of health services".

Substitution of section 2B

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

(**a**) Section 1 has been amended by S.I. 2001/3926.
(**b**) Section 2 has been amended by S.I. 2001/3926 and 2005/2011.
(**c**) Section 2A was inserted by S.I. 2005/2011.
(**d**) Section 2B was inserted by S.I. 2005/2011.

“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(**a**)); and

(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 registered dentists or dental care professionals whose fitness to practise is impaired, together with the Council’s observations on the report;

(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, as soon as is reasonably practicable after they are submitted to it, lay copies of the reports and the plan before each House of Parliament and before the Scottish Parliament.”

Amendment of section 2C

5. In section 2C(**b**) (accounts)—

(a) for subsection (3) substitute the following subsection—

“(3) The Council shall ensure that an individual or firm eligible for appointment as a statutory auditor under section 1212 of the Companies Act 2006 audits their annual accounts.”; and

(b) in subsection (4)(b), for “Privy Council and Comptroller and Auditor General” substitute “Privy Council, Comptroller and Auditor General and the Auditor General for Scotland”.

New section 2E

6. After section 2D(**c**), 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 in such manner as they see fit entries recorded in the register of members’ private interests.”

Amendment of section 27

7. In section 27(**d**) (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(**e**));

(**a**) 2006 c.3.
(**b**) Section 2C was inserted by S.I. 2005/2011.
(**c**) Section 2D was inserted by S.I. 2005/2011.
(**d**) Section 27 was substituted by S.I. 2005/2011.
(**e**) 2006 c.47.

(i) the Independent Barring Board including the person in a barred list (within the meaning of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007(**a**)); or

(j) 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(**b**))."

Amendment of section 36N

8. In section 36N(**c**) (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);

(i) the Independent Barring Board including the person in a barred list (within the meaning of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007); or

(j) 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 51

9. In section 51(**d**) (exercise of powers conferred on Privy Council), for subsections (2) to (5) substitute the following subsections—

"(2) The powers of the Privy Council to make an order under this Act, apart from an order—

(a) subject to subsection (2A), approving rules made under section 2(6) (committees of the Council);

(b) under section 11 (remedy where qualifying course of study or examinations are inadequate); or

(c) under section 12 (candidates not to be required to adopt or reject particular theories of dentistry),

shall be exercisable by statutory instrument.

(2A) An order approving rules made under section 2(6) 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 section 2(6).

(3) Any statutory instrument containing an order of the Privy Council that—

(a) contains (with or without other provisions) provisions made under section 1(2A) (constitution of the Council),

(b) approves rules made under—

(i) section 41(1) (restriction on individuals carrying on the business of dentistry), or

(ii) Schedule 3(**a**) (proceedings before the Investigating Committee, the Interim Orders Committee and Practice Committees: dentists), or Schedule 3 applied by—

(**a**) N. I. 11.
(**b**) 2007 asp 14.
(**c**) section 36N was inserted by S.I. 2005/2011.
(**d**) 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.

(aa) section 44A(1)(**b**) (supplementary provisions relating to financial penalties under sections 43B and 44), or

(bb) paragraph 4(7) of Schedule 2A(**c**) (registration appeals: dentists register),

shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) Any statutory instrument containing an order of the Privy Council that approves—

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

(b) rules under Schedule 4B(**d**) (proceedings before the Investigating Committee, the Interim Orders Committee and Practice Committees: dental care professionals), or Schedule 4B applied by paragraph 4(7) of Schedule 4A(**e**) (registration appeals: dental care professionals register),

shall be subject to annulment in pursuance of a resolution of either House of Parliament or, where paragraph (4A) applies, a resolution of either House of Parliament or a resolution of the Scottish Parliament.

(4A) This paragraph applies where an order of the Privy Council mentioned in subsection (4) includes measures for the regulation of 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 (S.I. 1986/887) did not constitute a class of dental auxiliaries regulated by those Regulations."

Amendment of Schedule 1

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

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

"*Constitution*

1.—(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 are not and never have been registered dentists or registered dental care professionals.

(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) Where the Privy Council directs that the Appointments Commission is to exercise any function of the Privy Council relating to the appointment of members of the Council under section 60 of the Health Act 2006 (Commission to exercise Privy Council's appointment functions), the directions may include provisions—

(a) requiring the Appointments Commission to ensure that, at any time, a specified number of members of the Council are drawn from such categories of persons as are specified in the directions;

(b) setting out the background, qualifications, competencies, interests and experience that potential members of the Council, or categories of potential members of the Council, must have, or that it is desirable that they should have, in order to be

(**a**) Schedule 3 was substituted by S.I. 2005/2011.
(**b**) Section 44A was inserted by S.I. 2005/2011.
(**c**) Schedule 2A was inserted by S.I. 2005/2011.
(**d**) Schedule 4B was inserted by S.I. 2005/2011.
(**e**) Schedule 4A was inserted by S.I. 2005/2011.
(**f**) 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.

considered for appointment (and may set those criteria by reference to published criteria, which are amended from time to time, of the Privy Council, the Appointments Commission or another body);

(c) in respect of the procedure to be followed by the Appointments Commission as regards the suspension or removal of members of the Council (where it is directed to exercise those functions).

(5) Before the Privy Council directs that the Appointments Commission is to exercise any function of the Privy Council relating to the appointment of members of the Council, the Privy Council shall consult with the Council.

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

1A.—(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 of members of the Council (the order may provide that these are to be determined by the Privy Council, on appointment);

(c) the appointment of a chair of the Council and his term of office;

(d) deputising arrangements in respect of the chair;

(e) the quorum of the Council; and

(f) the circumstances in which members cease to hold office or may be removed or suspended from office (standing orders of the Council may make provision with regard to the suspension of a member from office, pending confirmation or termination of that suspension in accordance with the provisions of the order under section 1(2A)).

(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 were 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 (the order may provide for the education and training of the members to be the responsibility of another body, and for the requirements with regard to education and training 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 among the members of the Council or any defect in the appointment of a member.

(4) An order under section 1(2A) may contain such incidental, consequential, transitional 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 8 (which relates to the general powers of the Council to make rules), in sub-paragraph (1), omit paragraph (a).

(5) 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) 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 2(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 paragraphs (4) and (5) substitute the following paragraphs—

"(4) The main objective of the Council in exercising such of its functions as affect the health, safety or well-being of members of the public is to protect, promote and maintain the health, safety and well-being of members of the public, and in particular of those members of the public who use or need the services of registrants.

(5) In exercising its functions, the Council (including its staff and its committees) shall—

(a) have proper regard for—

(i) the interests of persons using or needing the services of registrants in the United Kingdom, and

(ii) any differing interests of different categories of registrants or prospective 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 professions,

(iv) the regulation of health services, and

(v) the provision, supervision or management of health 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.";

(b) omit paragraph (7);

(c) for paragraph (8) substitute the following paragraphs—

"(8) The Council shall be constituted as provided for by order of the Privy Council.

(8A) Part 1 of Schedule 1 (which relates to orders under paragraph (8) and procedures and powers of the Council) shall have effect.";

(d) in paragraph (17)(a), after "the Secretary of State" insert "and the Scottish Ministers"; and

(e) in paragraph (18), for "Part II" substitute "Part 2".

Amendment of article 13

2. In article 13(**a**) (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 registered psychologist, in the BPS register or the AEP register; but”; and

(b) in sub-paragraph (d), after “two years” add “, or in the case of registered psychologists three years,”.

Amendment of article 22

3. 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),

(vii) the Independent Barring Board including the person in a barred list (within the meaning of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007), or

(viii) 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

4. In article 25 (Council’s power to require disclosure of information), omit paragraph (6).

Amendment of article 39

5. In article 39 (offences)—

(a) in paragraph (1)(b), before “he uses” insert “subject to paragraph (2A),”;

(b) in paragraph (2)(a), for “13(1)(b)” substitute “13(1)(d)”; and

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

“(2A) An academic or research psychologist with expertise in a branch of psychology that relates to a title referred to in article 6(2) will not be guilty of an offence under paragraph (1)(b) if he uses a title referred to in article 6(2) that relates to that branch.”

Amendment of article 42

6. In article 42 (exercise of powers by the Privy Council), for paragraphs (2) and (3) substitute the following paragraphs—

“(2) Subject to paragraph (2A), the powers of the Privy Council to make an order under this Order, apart from an order approving rules made under Part 2 of Schedule 1, shall be exercisable by statutory instrument.

(2A) An order approving rules made under Part 2 of Schedule 1, shall be made by statutory instrument if—

(**a**) Amended by S.I. 2004/2033.

(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 Part 2 of Schedule 1.

(3) Any statutory instrument containing an order of the Privy Council that contains (with or without other provisions) provisions made under article 3(8) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3A) Any statutory instrument containing an order of the Privy Council that approves rules made under article 26(3) 32, 33(4) or 37 (whether or not it also approves rules that include rules made under other provisions of this Order) shall be subject to annulment in pursuance of a resolution of either House of Parliament or, where paragraph (3B) applies, a resolution of either House of Parliament or a resolution of the Scottish Parliament.

(3B) This paragraph applies where an order of the Privy Council that approve rules under article 26(3), 32, 33(4) or 37 include measures for the regulation of operating department practitioners or registered psychologists."

Revocation of article 44 and new article 44A

7.—(1) Article 44 (annual reports) is revoked.

(2) Before article 45 insert the following article—

"Annual reports, statistical reports and strategic plans

44A.—(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); and

(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 to protect members of the public from registrants whose fitness to practise is impaired, together with the Council's observations on the report;

(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, as soon as is reasonably practicable after they are submitted to it, lay copies of the reports and the plan before each House of Parliament and before the Scottish Parliament."

Amendment of article 46

8. In article 46 (accounts of the Council)—

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

"(3) The Council shall ensure that those appointed are individuals or a firm eligible for appointment as a statutory auditor under section 1212 of the Companies Act 2006."; and

(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".

Amendment of Schedule 1

9.—(1) Schedule 1 (The Health Professions Council and Committees) is amended in accordance with the provisions of this paragraph.

(2) Part I is renumbered Part 1(**a**).

(3) In Part 1, 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 are not and never have been registrants.

(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) Where the Privy Council directs that the Appointments Commission is to exercise any function of the Privy Council relating to the appointment of members of the Council under section 60 of the Health Act 2006 (Commission to exercise Privy Council’s appointment functions), the directions may include provisions—

(a) requiring the Appointments Commission to ensure that, at any time, a specified number of members of the Council are drawn from such categories of persons as are specified in the directions;

(b) setting out the background, qualifications, competencies, interests and experience that potential members of the Council, or categories of potential members of the Council, must have, or that it is desirable that they should have, in order to be considered for appointment (and may set those criteria by reference to published criteria, which are amended from time to time, of the Privy Council, the Appointments Commission or another body);

(c) in respect of the procedure to be followed by the Appointments Commission as regards the suspension or removal of members of the Council (where it is directed to exercise those functions).

(5) Before the Privy Council directs that the Appointments Commission is to exercise any function of the Privy Council relating to the appointment of members of the Council, the Privy Council shall consult with the Council.

Matters for the order of the Privy Council under article 3(8)

1B.—(1) An order under article 3(8) shall include provision with regard to—

(a) the numbers of registrant members and lay members of the Council;

(b) the terms of office of members of the Council (the order may provide that these are to be determined by the Privy Council, on appointment);

(c) the appointment of a chair of the Council and his term of office;

(d) deputising arrangements in respect of the chair;

(e) the quorum of the Council; and

(f) the circumstances in which members cease to hold office or may be removed or suspended from office (standing orders of the Council may make provision with regard to the suspension of a member from office, pending confirmation or termination of that suspension in accordance with the provisions of the order under article 3(8)).

(**a**) 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.

(2) But an order under article 3(8) must not include any provision which would have the effect that a majority of the members of the Council were lay members.

(3) An order under article 3(8) 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 (the order may provide for the education and training of the members to be the responsibility of another body, and for the requirements with regard to education and training 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 among the members of the Council or any defect in the appointment of a member.

(4) An order under article 3(8) may contain such incidental, consequential, transitional or supplementary provisions as appear to the Privy Council to be necessary or expedient."

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

"Procedure of the Council and committees

13. Subject to any provision made by this Order or by rules under this Order, the Council may regulate its procedures and the procedures of its committees and sub-committees, other than its statutory committees, by standing orders."

(5) In paragraph 16 (powers of the Council), in sub-paragraph (7), omit "election or".

(6) Part II is renumbered Part 2.

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

"(1) The Council shall by rules provide for the composition 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) 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) to assist the Council in connection with any function relating to the appointment of members or particular members of the Education and Training Committee (including suspension or removal from office).

(2A) Subject to any provision made by this Order or by rules under this Order, 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) The Council shall by rules provide for the composition 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) 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) to assist the Council in connection with any function relating to the appointment of members

or particular members of a Practice Committee (including suspension or removal from office).

(3) Subject to any provision made by this Order or by rules under this Order, each Practice Committee may regulate its own procedure.”

(9) In paragraph 19 (which relates to supplemental matters relating to Practice Committees), omit sub-paragraphs (1) to (3) and (6).

Amendment of Schedule 3

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

(a) after the definition of “the 1960 Act” insert the following definition—

““the 2007 Order” means the Health Care and Associated Professions (Miscellaneous Amendments) (No. 2) Order 2007;”;

(b) 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 that relate to full membership of the Association;”;

““BPS register” means the aggregate of the entries in the register maintained by the British Psychological Society that relate to holders of practising certificates who are members 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;”;

““enactment” includes an enactment comprised in, or an instrument made under, an Act of the Scottish Parliament;”; and

““registered psychologists” means persons who—

(a) either—

(i) use psychological expertise to advise, counsel, assess or intervene in relation to individuals or aggregates of individuals for the purposes of promoting, sustaining or improving psychological health, well-being or functioning, or

(ii) are wholly or mainly engaged in the teaching at postgraduate level or the management of persons who use or are seeking to acquire psychological expertise as described in sub-paragraph (i); and

(b) have expertise in one or more of the following branches of psychology: clinical psychology, counselling psychology, educational psychology, forensic psychology, health psychology, occupational psychology, or sport and exercise psychology;”;

(c) in the definition of “relevant professions”, after “physiotherapists;” insert “registered psychologists;”; and

(d) 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

11.—(1) In Schedule 1 (the Health Professions Council and Committees)—

(a) in paragraph 9 (tenure of members)—

(i) in sub-paragraph (1), before “each member’s term” insert “subject to sub-paragraph (1A),”, and

(ii) after sub-paragraph (1) insert the following sub-paragraph—

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

"(1A) The term of office of any registrant or alternate member who holds office on 8th July 2008, or full term of office that relates to a vacancy on the Council on that date, 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(8), 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 registered psychologists is introduced before the reform of the composition of the Council

12. In Part 1 of Schedule 1 (the Health Professions Council)—

(a) in paragraph 1(1)—

(i) in paragraph (a), for "13 members" substitute "14 members",

(ii) in paragraph (b), for "12 members" substitute "13 members", and

(iii) in paragraph (c), for "13 members" substitute "14 members";

(b) in paragraph 3, for "or the AODP register" substitute ", the AODP register or the BPS register";

(c) in paragraph 9 (which relates to tenure of members)—

(i) in sub-paragraph (1), for "Subject to sub-paragraph (1A)," substitute "Subject to sub-paragraphs (1A) and (1C),", and

(ii) after sub-paragraph (1A) insert the following sub-paragraphs—

"(1B) The vacancies for a first registrant member and a first alternate member in respect of the part of the register which relates to registered psychologists, which arise on the coming into force of paragraph 13(a) of Schedule 2 to the 2007 Order, shall be filled in a like manner as a vacancy arising after the resignation of a registrant or alternate member.

(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 registered 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(8), whichever is the sooner."

SCHEDULE 3

Article 2(3)

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) add the following paragraph—

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

"(3) For the purposes of articles 6A and 31A, "emergency" means an emergency of the type described in section 19(1)(a) of the Civil Contingencies Act 2004(**a**) (meaning of "emergency"), read with subsection (2) of that section."

Amendment of article 4

3. In article 4 (the Society's general duties)—

(a) for paragraph (1), substitute the following paragraph—

"(1) The main objective of the Society in exercising such of its functions as affect the health, safety or well-being of members of the public is to protect, promote and maintain the health, safety and well-being of members of the public, and in particular of those members of the public who use or need the services of registrants, by ensuring that registrants adhere to such standards as the Society consider necessary for the safe and effective practice of their professions.";

(b) in paragraph (2)(a)—

(i) in paragraph (i), for "registered pharmacists" substitute "registrants", and add "and" at the end of the paragraph, and

(ii) omit paragraph (ii);

(c) in paragraph (2)(b), for paragraph (iv) substitute the following paragraphs—

"(iv) the regulation of health services, and

(v) the provision, supervision or management of health services."; and

(d) 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 its 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); 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.

(1A) The Council shall submit copies of the reports published under paragraph (1) to the Privy Council and the Privy Council shall, as soon as is reasonably practicable after they are submitted to it, lay copies of the reports before each House of Parliament and before the Scottish Parliament.";

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

(3) The Council shall ensure that an individual or firm eligible for appointment as a statutory auditor under section 1212 of the Companies Act 2006 audits the Society's annual accounts."; and

(c) in paragraph (4), for "a copy", at the second place where it occurs, substitute "and before the Scottish Parliament copies".

(**a**) 2004 c.36.

Amendment of article 7

5. In article 7 (the statutory committees), in paragraph (5)(d), after "established under the Charter" insert "or in accordance with rules under this article".

New article 19A

6. After article 19, insert the following article—

"Temporary registration with regard to emergencies involving loss of human life or human illness etc.

19A.—(1) In circumstances where the Secretary of State advises the Registrar that an emergency has occurred, is occurring or is about to occur, the Registrar may register under this article a person as a registered pharmacist in Part 1 of the Register of Pharmacists, or a specified group of persons (without needing to identify each individual member of the group) as registered pharmacists in Part 1 of the Register of Pharmacists—

(a) if the Registrar considers—

(i) in the case of an individual, that the person is a fit, proper and suitably experienced person to be registered as a registered pharmacist in Part 1 of the Register of Pharmacists with regard to an emergency, or

(ii) in the case of a group of individuals, that the group are of a type of persons that are fit, proper and suitably experienced persons to be registered as registered pharmacists in Part 1 of the Register of Pharmacists with regard to an emergency ; and

(b) subject to such conditions as the Registrar may specify.

(2) The Registrar may at any time vary the conditions to which a person registered under this article is subject (including by adding to or revoking any conditions), and the registration of a person who is registered as part of a group of persons may, accordingly, be subject to different conditions from other members of the group.

(3) 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 gave rise to the need for registration under this article no longer pertain; or

(b) the Registrar may do for any other reason at any time (without any rights of appeal), including where the Registrar has grounds for suspecting that the person's fitness to practise may be impaired.

(4) The Registrar may use the powers under paragraph (3) to revoke the registration of both individual registrants (including those initially registered as part of a specified group) and specified groups of registrants.

(5) Articles 11 to 19 and Part 5, apart from articles 45 to 47, shall not apply to persons registered under this article.

(6) If a person breaches any condition to which his registration under this article is subject, anything done by the 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."

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” (twice) 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) after paragraph (1) insert the following paragraph—

“(1A) Rules under paragraph (1) may provide for the marking of the Register of Pharmacists so as to distinguish those registered under article 19A from other registered pharmacists, or for those registered under article 19A to be included in a separate list from others included in Part 1 of the Register.”; and

(b) in paragraph (3), omit “and” at the end of sub-paragraph (d)(ii) and after sub-paragraph (e) insert the following paragraphs—

“(f) a note so as to distinguish those registered under article 19A from other registered pharmacists (if they are not all included in a separate list); and

(g) a note so as to distinguish annotations made under article 31A from other annotations of entries of registered pharmacists who are qualified to order drugs, medicines and appliances in the specified capacity.”

Amendment of article 31

12. After article 31 (specialisations), insert the following article—

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

31A.—(1) In circumstances where the Secretary of State advises the Registrar that an emergency has occurred, is occurring or is about to occur, the Registrar may annotate the entry of a person in Part 1 of the Register of Pharmacists to indicate that the person is qualified to order drugs, medicines and appliances in a specified capacity, notwithstanding that the person is not so qualified, if the Registrar considers that the person—

(a) is a fit, proper and suitably experienced person to order drugs, medicines and appliances in that capacity with regard to an emergency; or

(b) is of a type of person that are fit, proper and suitably experienced persons to order drugs, medicines and appliances in that capacity with regard to an emergency.

(2) The Registrar may make the annotation in such a way so as to distinguish registered pharmacists whose entry is annotated by virtue of paragraph (1) from registered

pharmacists 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 which gave rise to the need for annotations by virtue of paragraph (1) no longer pertain; or

(b) may be removed by the Registrar at any time (without any rights of appeal), including where the Registrar has grounds for suspecting that the person's fitness to order drugs, medicines or appliances may be impaired."

Amendment of article 39

13. In article 39 (continuing professional development)—

(a) in paragraph (2), after "Continuing Professional Development Committee" (thrice) insert "or the Education Committee";

(b) in paragraph (4)(a), after "Continuing Professional Development Committee" insert "or the Education Committee";

(c) in paragraph (6), after "Continuing Professional Development Committee" (twice) insert "or the Education Committee"; and

(d) in paragraph (7), after "Continuing Professional Development Committee" insert "or the Education Committee".

Amendment of article 41

14. In article 41 (restoration to the Society's registers of persons removed under Parts 2 to 4), in paragraph (2), after "Continuing Professional Development Committee" (thrice) insert "or the Education Committee".

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 and 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) in paragraph (1)(a)—

(i) for "registered pharmacist" (thrice) substitute "registrant", and

(ii) before "a person authorised" insert "or for assisting the Registrar in identifying any person registered as part of a specified group of persons under article 19A,";

(b) omit paragraph (1)(b) and "or" at the end of paragraph (1)(a); and

(c) in paragraph (5)(b), omit paragraph (i).

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);

(m) the Independent Barring Board including the person in a barred list (within the meaning of the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007); or

(n) 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)—

(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) add "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 paragraphs (a) and (b) substitute the following 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 55

22. In article 55 (restoration of names to the register: fitness to practise), in paragraph (3)(c), after "Continuing Professional Development Committee" insert "or the Education Committee".

Amendment of article 56

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

Amendment of article 58

24. In article 58 (interim measures pending a direction taking effect), in paragraph (5)(a), for "registered pharmacist" substitute "registrant".

Amendment of article 66

25. In article 66 (rules), in paragraph (3)—

(a) for "Part 6" 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

26. In article 69 (Privy Council procedures etc.)—

(a) for paragraphs (2) and (3) substitute the following paragraphs—

"(2) Subject to paragraph (2A), the powers of the Privy Council to make an order under this Order, apart from an order approving byelaws under paragraph 4(2) of Schedule 2 or an order approving rules made under article 7 (or article 7 together with article 66(1)), shall be exercisable by statutory instrument.

(2A) An order approving rules 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)).

(3) Any statutory instrument containing an order of the Privy Council that approves rules made under article 49(1), 51(1), 52(1) or 59(1) (whether or not it also approves rules that include rules made under other provisions of this Order) shall be subject to annulment in pursuance of a resolution of either House of Parliament or, where paragraph (3A) applies, a resolution of either House of Parliament or a resolution of the Scottish Parliament.

(3A) This paragraph applies where an order of the Privy Council that approves rules under article 49(1), 51(1), 52(1) or 59(1) includes measures for the regulation of pharmacy technicians."; and

(b) in paragraph (4), for "paragraph (2)" substitute "this article".

Amendment of paragraph 6 of Schedule 2

27. In Schedule 2 (transitional provisions), 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 3

Amendments to and revocations of other legislation

Constitutional changes to the General Dental Council

1.—(1) The General Dental Council (Constitution) Order of Council 2006(**a**) is revoked.

(2) The General Dental Council (Constitution of Committees) Order of Council 2003(**b**) is revoked.

(3) The General Dental Council (Constitution of Committees) Amendment Order of Council(**c**) is revoked.

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

(**a**) S.I. 2006/1666.
(**b**) S.I. 2003/1081.
(**c**) S.I. 2004/67.
(**d**) S.I. 2006/1665.

Amendments to primary legislation relating to the introduction of statutory regulation of registered psychologists

2.—(1) 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 in the alphabetical order insert—

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

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

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

(3) In Schedule 6 to the Powers of Criminal Courts (Sentencing) Act 2000(**c**) (requirements which may be included in supervision orders), 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) above, "registered psychologist" means a person registered in the part of the register maintained under the Health Professions Order 2001 which relates to registered psychologists.".

(4) In section 343 of the Income Tax (Earnings and Pensions) Act 2003(**d**) (deduction for professional membership fees), in the Table in subsection (2) omit paragraph 2.

(5) In the Criminal Justice Act 2003(**e**)—

(a) in the following provisions, for "chartered psychologist" substitute "registered psychologist"—

(i) subsection (1) and (2)(c) of section 207 (mental health treatment requirement), and

(ii) subsection (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 registered psychologists.".

(6) [In section 21 of the Criminal Justice (Scotland) Act 2003(**f**) (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 registered psychologists)".]

(7) In the Gender Recognition Act 2004(**g**)—

(**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**) 2003 c.1.
(**e**) 2003 c.44.
(**f**) 2003 asp 7.
(**g**) 2004 c.7.

(a) in subsection (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 in alphabetical order—

""registered psychologist" means a person registered in the part of the register maintained under the Health Professions Order 2001 which relates to registered 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".

Amendments relating to the introduction of statutory regulation of registered psychologists

3.—(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".

(2) In regulation 53 of the Representation of the People (England and Wales) Regulations 2007(**b**) (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).

(3) In regulation 53 of the Representation of the People (Scotland) Regulations 2007(**c**) (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).

(4) In Article 3 of the Life Sentences (Northern Ireland) Order 2001(**d**) (Life Sentence Review Commissioners)—

(a) in paragraph (2)(c), for "chartered psychologist" substitute "registered psychologist"; and

(b) in paragraph (6), for the definition of "chartered psychologist" substitute the following definition—

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

(5) In regulation 2 of the Care Homes Regulations 2001(**e**) (interpretation), in paragraph (1), in the definition of "health care professional" omit "clinical psychologist or".

(6) In regulation 2 of the Private and Voluntary Care (England) Regulations 2001(**f**) (interpretation), paragraph (1), in the definition of "health care professional" omit "clinical psychologist or".

(7) In regulation 2 of the Care Homes (Wales) Regulations 2002(**g**) (interpretation), in paragraph (1), in the definition of "health care professional", omit "clinical psychologist or".

(8) In regulation 2 of the Private and Voluntary Care (Wales) Regulations 2002(**h**) (interpretation), in paragraph (1), in the definition of "health care professional" omit "clinical psychologist or".

(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**) S.I. 1975/1023; the relevant amending instrument is S.I. 2002/441.
(**b**) S.I. 2001/341; the relevant amending instrument is S.I. 2006/2910.
(**c**) S.I. 2001/497; the relevant amending instrument is S.I. 2007/925.
(**d**) S.I. 2001/2564.
(**e**) S.I. 2001/3965; regulation 2(1) has been amended by S.I. 2004/664, 865 and 1770.
(**f**) S.I. 2001/3969; regulation 2(1) has been amended by S.I. 2004/664 and 865.
(**g**) S.I. 2002/324; the relevant amending instrument is S.I. 2004/1314.
(**h**) S.I. 2002/325.

(a) in Part 1 (professions), omit paragraph 13; and

(b) in Part 4 (interpretation), omit the definition of "chartered psychologist".

(10) In regulation 2 of the Mental Health Tribunal for Scotland (Appointment of General Members) Regulations 2004(**b**) (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".

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

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

(13) In regulation 3 of the Regulation of Care (Social Service Workers) (Scotland) Order 2005(**e**) (excluded persons), omit paragraph (2).

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

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

(16) In regulation 8 of the Representation of the People (Absent voting at Local Government Elections) (Scotland) Regulations 2007(**h**) (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).

(17) In the European Communities (Recognition of Professional Qualifications) Regulations 2007(**i**)—

(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"; and

(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

---

(**a**) S.S.I 2003/231.
(**b**) S.S.I. 2004/375.
(**c**) S.S.I. 2004/430.
(**d**) S.S.I. 2004/430.
(**e**) S.S.I. 2005/318.
(**f**) S.I. 2007/937.
(**g**) S.I. 2007/236.
(**h**) S.S.I. 2007/170.
(**i**) S.I. 2007/2781.

(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)".

Amendment of the Safeguarding Vulnerable Groups Act 2006

4.—(1) The Safeguarding Vulnerable Groups Act 2006(**a**) is amended in accordance with this paragraph.

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

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

"(4A) In a case where the first condition is met because the keeper thinks the harm test is satisfied, the second condition is also met where—

(a) a person may not engage in a regulated activity or controlled activity, or his ability to engage in a regulated or controlled activity is restricted, because—

(i) the person has been refused entry, or the entry of his name, into a relevant register;

(ii) the person has been removed from or struck off, or his name has been erased from, a relevant register;

(iii) the person's registration is suspended (including where, during an investigation or pending the exhaustion of rights of appeal, it is suspended as an interim measure);

(iv) the person's registration has been made conditional on his compliance with specified requirements (including where, during an investigation or pending the exhaustion of rights of appeal, it has been made conditional on his compliance with specified requirements as an interim measure) or his entry in the register has been annotated with a formal caution,

for a reason that relates to the harm test being satisfied;

(b) a person is under investigation by the body that holds the relevant register in relation to an offence and matters relevant to that investigation are also relevant to the keeper thinking that the harm test is satisfied;

(c) the body that holds the relevant register holds information about a person and the keeper thinks it likely that the information will, following further consideration of the matter—

(i) lead to a sanction of the types referred to paragraph (a)(i) to (iv) being imposed for a reason that relates to the harm test being satisfied, or

(ii) lead to an investigation in relation to an offence, in circumstances where matters relevant to that investigation will also be relevant to the keeper thinking that the harm test is satisfied.

(4B) Where a keeper of a relevant register provides IBB with information about a person because he thinks the second condition is met for one of the reasons set out in subsection (4A), he must also inform IBB of—

(a) the outcome of any hearing (including a review hearing) held by the body that holds the relevant register—

(i) which is in respect of a sanction of one of the types mentioned in subsection (4A)(a)(i) to (iv), and

(ii) at which matters relevant to the first or second condition being satisfied are considered; or

---

(**a**) 2006 c.47.

(b) the outcome of any investigation in relation to an offence which is undertaken in relation to that person by the body that holds the relevant register, if matters relevant to that investigation were also relevant to the keeper thinking that the harm test is satisfied."

(b) in the table in subsection (7)—

(i) for entry 2 in the column 1 (relevant register) substitute the following entry—

"**2.** The register of pharmacists maintained under Article 10(1) of the Pharmacists and Pharmacy Technicians Order 2007 (S.I. 2007/289) or the register of pharmacy technicians maintained under Article 21(1) of that Order"; and

(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".

(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".

Amendments relating to the introduction of statutory regulation of pharmacy technicians

5.—(1) 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), after paragraph 8 insert the following paragraph—

"**8A.** Registered pharmacy technician."; and

(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;".

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

(3) In the Royal Pharmaceutical Society of Great Britain (Registration) Rules 2007(**c**)—

(a) in rule 2 (interpretation), omit paragraph (2);

(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—

(**a**) 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/ .
(**b**) S.S.I. 2005/125.
(**c**) Scheduled to S.I. 2007/441.

(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 his full home address and contact details (including a telephone number and electronic mail address, where possible),

(iii) to declare in terms that he—

(aa) agrees, upon registration with the Society, to adhere to the standards, and

(bb) understands that, in the event that he is found to have given false or misleading information in connection with his application for registration, he 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 relevant to the applicant's gender, ethnicity and any disability for monitoring purposes.

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

(a) evidence of his identity in the form of—

(i) his passport (or a true copy of it, certified by a notary) 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 applicant for at least two years and who certifies that the photograph is a true likeness of the applicant;

(b) where the applicant 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),

(ii) the relevant certificate of change of name (or a true copy of it, certified by a notary), or

(iii) evidence of the change of name in the form of a statutory declaration;

(c) evidence of his date of birth in the form of—

(i) his passport (or a true copy of it, certified by a notary) or other document considered suitable under (3)(a)(i), and

(ii) either—

(aa) his birth certificate (or a true copy of it, certified by a notary), or

(bb) a statutory declaration;

(d) sufficient evidence (in the opinion of the Registrar) that he is appropriately qualified;

(e) where an applicant is seeking to rely on rights of an exempt person—

(i) acquired by virtue of being a national of a relevant European State other than the United Kingdom, sufficient evidence (in the opinion of the Registrar) that he is a national of a relevant European State other than the United Kingdom,

(ii) acquired by virtue of marriage or civil partnership to a national of a relevant European State—

(aa) sufficient evidence (in the opinion of the Registrar) of the marriage or civil partnership,

(bb) the passport (or a true copy of it, certified by a notary) of the partner that is the national of the relevant European State, and

(cc) an explanation, together with any relevant supporting evidence, as to why the applicant is entitled to be treated as an EEA national, or

(iii) acquired by virtue of any other reason, sufficient evidence (in the opinion of the Registrar) that he has the enforceable Community right on the basis of which he seeking to rely on rights of an exempt person;

(f) in the case of an exempt person, sufficient information (in the opinion of the Registrar) about his knowledge and standards of practice, wherever acquired, to determine whether he 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 applicant, in the case of—

(i) an exempt person, a document (which, if it is not in English, the Registrar may require to be translated by a professional translator acceptable to him), issued no more than three months prior to the date on which it is presented to the Registrar which attests to his good physical and mental health, or

(ii) in the case of any other person (or an exempt person who chooses to attest to his physical or mental health in this way) a self-declaration, in the form determined by the Council from time to time of his good physical and mental health, which is signed and dated by the applicant;

(h) in the case of an exempt person who is considered appropriately qualified by virtue of article 23(1)(b) of the Order ("E"), sufficient evidence (in the opinion of the Registrar) of his good character or repute, which need only include—

(i) a document (which, if it is not in English, the Registrar may require to be translated by a professional translator acceptable to him), issued no more than three months prior to the date on which it is presented to the Registrar, which—

(aa) attests to his good character or repute, and

(bb) which is required in his relevant European State of origin or the relevant European State from which he comes ("E's attesting State") if he wishes to start practising as a pharmacy technician there,

(ii) if no such document as mentioned in sub-paragraph (i) is required in E's attesting state, a document—

(aa) containing an extract from the judicial record issued by a competent authority in E's attesting state, or

(bb) which is a certificate issued by a competent authority in E's attesting state which is equivalent to an extract from that State's judicial record,

and a self declaration in respect of matters set out in article 48(1)(e) to (k) of the Order, in the form determined by the Council from time to time of his good character and repute, which is signed and dated by the applicant,

(h) in the case of an applicant to whom sub-paragraph (h) does not apply, a self declaration in respect of matters set out in article 48(1)(e) to (k) of the Order, in the form determined by the Council from time to time, of his good character or repute, which—

(i) is signed and dated by the applicant, and

(ii) may include the additional matters set out in paragraph (4); and

(i) such other documents, information or evidence as the Registrar may reasonably require for the purpose of verifying the information in, or determining, the application.

(4) The additional matters referred to in paragraph (3)(h)(ii) are —

(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 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, of that certificate;

(c) where the applicant has been the subject of a determination by a regulatory body that his 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—

(ii) by the appropriate authority of the country in which the applicant qualified, and

(ii) 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 the 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.";

(c) in rule 7 (retention in the Register of Pharmacists)—

(i) in paragraph (1), for "the Register of Pharmacists" substitute "the register", and

(ii) in paragraph (2), for "the Register of Pharmacists" substitute "the register", and

(iii) in paragraph (9), for "the Register of Pharmacists" substitute "the register",

and in the heading of the rule, for "the Register of Pharmacists" substitute "the register"; and

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

(4) In the Royal Pharmaceutical Society of Great Britain (Fitness to Practise and Disqualification etc.) Rules2007(**a**), in rule 2 (interpretation), omit paragraph (3).

(5) In the European Communities (Recognition of Professional Qualifications) Regulations 2007(**b**)—

(a) in Schedule 1 (regulated professions), in Part 1 (professions regulated by law or public authority)—

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

(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".

Miscellaneous amendments updating references in recent legislation

6.—(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), 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";".

(2) 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 paragraph—

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

(3) 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 paragraph—

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

(4) 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;".

(5) 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 paragraph—

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

(6) 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;".

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

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes various 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 profession, registered psychologists, to the list of professions regulated by the HPC, and makes changes to the systems in place in England and Wales, and in Scotland, for the protection of children and vulnerable adults.

Statutory registration of psychologists is limited essentially to practitioners who intervene in relation to individuals or aggregates of individuals, and to psychologists who manage such practitioners or who teach prospective practitioners at postgraduate level, if they have expertise in one or more of the following branches of psychology: clinical psychology, counselling psychology, educational psychology, forensic psychology, health psychology, occupational psychology, or sport and exercise psychology. Such psychologists, referred to as "registered 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 (to be included in an order under the Health Professions Order 2001) is restricted to registrants, although special provision is made to allow academic and research psychologists to continue to use titles that are relevant to their areas of expertise (paragraphs 5 and 10 of Schedule 2).

There are transitional arrangements which will allow for the transfer of some existing members of the British Psychological Society (BPS), and of existing full members of 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 the registrant is subject to proceedings which could lead to their suspension or removal from the relevant register by either the BPS or the AEP. The transitional provisions also include provision for any necessary transfers of staff or assets, and require the BPS and the AEP to enter into arrangements with the HPC to facilitate the successful introduction of statutory regulation of registered psychologists. Psychologists who are not 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 HPC, subject to the psychologist satisfying a test of competence, where appropriate (articles 2 and 5 and paragraph 2 of Schedule 2).

Supplementary provision is made in relation to the Protection of Vulnerable Groups (Scotland) Act 2007. The new provisions require the Scottish Ministers to notify a relevant health care regulatory body, 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 the relevant health care regulatory body if the individual becomes no longer barred (article 6). The Safeguarding Vulnerable Groups Act 2006, which applies to England and Wales, is also amended so as to require the Independent Barring Board (IBB) to notify relevant health care regulatory bodies about barring decisions and their consideration of them. The Act is also amended to allow health care regulatory bodies to apply for relevant information from the IBB, and conversely, these regulatory bodies are also given duties to refer relevant information to the IIB (paragraph 4 of Schedule 4). The Dentists Act 1984, the Health Professions Order 2001 and the Pharmacists and Pharmacy Technicians Order 2007 are also 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 3 of Schedule 2 and paragraph 18 of Schedule 3).

Schedule 1 also contains other amendments to the Dentists Act 1984. Paragraph 1 includes the main objective of the General Dental Council (GDC). This is in what is the standard format for the main objective of most health care regulatory bodies, requiring the GDC to protect, promote and maintain the health, safety and well-being of the public my ensuring that its registrants adhere to the correct standards for safe and effective practice.

The 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. If the Privy Council, which is the body responsible for appointing the membership of the GDC, directs the Appointments Commission to carry out any of the Privy Council's 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 (paragraphs (3, 6 and 10 of Schedule 1)

Section 2B of the Dentists Act 1984 contains the new arrangements for annual reports. As with most of the other health care regulatory bodies, 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, there is an updating of the reference to the auditors to take account of changes introduced in the Companies Act 2006. (paragraphs 4 and 5).

Section 51 of the Dentists Act 1984 is amended as part of a process of standardising the arrangements for the approval of health care regulatory body legislation. Orders of the Privy Council that approve rules relating to the constitution of the committees of the GDC will no longer need to be in statutory instruments, and only the constitution order for the Council, orders approving rules relating to fitness to practise proceedings, orders approving rules relating to the restrictions on carrying on the business of dentistry and orders or bringing new groups of dental care professionals within professional regulation will be subject to a Parliamentary procedure. If those rules relate to a profession complementary to dentistry, the regulation of which, as respects Scotland, is devolved, that procedure will involve both the United Kingdom and the Scottish Parliaments.

Schedule 2 contains further amendments to the Health Professions Order 2001. The main objective of the HPC is revised, requiring it to protect, promote and maintain the health, safety and well-being of the public, and in particular those who use or need the services of registrants.

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 alternant 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, until either the new constitution order has been made or they have served a maximum of four years since they were elected. 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 so that these have to be set out in rules, with less of the detail included in the Health Professions Order 2001 itself. The 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 duties of co-operation with stakeholders (paragraphs 1, 9 and 11 of Schedule 2).

Article 42 of the Health Professions Order 2001 has been revised as part of the process of standardising the arrangements for the approval of regulatory body legislation. Orders of the Privy Council approving rules of the HPC that relate to the constitution of its committees will not need to be in a statutory instrument – and whereas other Orders of the Privy Council approving rules will need to be in statutory instruments, only the constitution Order for the Council, and the

Orders approval rules that fitness to practise proceedings or registration appeals will be subject to a Parliamentary procedure. If the rules relate operating department practitioners or registered psychologists, that procedure will involve both the United Kingdom and the Scottish Parliaments (paragraph 6).

Article 44A of the Health Professions Order 2001 contains new arrangements for annual reports. As with most of the other health care regulatory bodies, 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 (paragraphs 7 and 8).

Schedule 3 contains further amendments to the Pharmacists and Pharmacy Technicians Order 2007. The main objective of the Royal Pharmaceutical Society of Great Britain (RPSGB) is revised and is now worded in similar terms to that of the GDC. There are new arrangements for annual reports. The RPSGB will need 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; and a statistical report relating to their statistical functions. As regards annual accounts, there is an updating of the reference in the Pharmacists and Pharmacy Technicians Order 2007 to the Society's auditors to take account of changes introduced in the Companies Act 2006. These new constitutional arrangements also include changes to the RPSGB's duties of co-operation with stakeholders (paragraphs 3(a) and (b) and 4).

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 (paragraphs 1, 3(c), 7 to 10, 15, 17, 19 to 21, 23 to 25 and 27).

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 registration and temporary annotations at any time, without going through the normal fitness to practice procedures. Both those temporarily registration 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 pertain (paragraphs 2, 6, 11, 12 and 17).

The RPSGB's rule making powers in relation to continuing professional development are amended so as to allow for either the RPSGB's Continuing Professional Development Committee or its Education Committee to deal with case work relating to continuing professional development (paragraphs 13 and 14).

Article 69 of the Pharmacists and Pharmacy Technicians Order 2007 has been revised as part of the process of standardising the arrangements for the approval of regulatory body legislation. Orders of the Privy Council approving byelaw changes of the RPSGB, or rules of the RPSGB that relate to the constitution of its committees will not need to be in a statutory instrument – and whereas other Orders of the Privy Council approving rules will need to be in statutory instruments, only Orders approval rules that fitness to practise proceedings or registration appeals will be subject to a Parliamentary procedure. If the rules relate to pharmacy technicians, that procedure will involve both the United Kingdom and the Scottish Parliaments (paragraph 26).

Some consequential amendments, repeals and updating amendments are set out in Schedule 4. The Order also includes a provision which allows for the making of further transitional, transitory or saving provisions by order of the Privy Council (articles 8 and 9).

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. Copies of the assessment have been placed in the libraries of both Houses of Parliament.