Draft Order in Council laid before Parliament and the Scottish 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

2009 No. 000

HEALTH CARE AND ASSOCIATED PROFESSIONS

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

Made - - - - 2009

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

At the Court at Buckingham Palace, the day of 2009

Present,

The Queen's Most Excellent Majesty in Council

This Order in Council is made in exercise of the powers conferred by sections 60 and 62 of, and Schedule 3 to, the Health Act 1999(**1**).

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

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

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

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

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

Citation, commencement and extent

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

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

(a) this article and articles 2 and 5 to 10;

(b) in Schedule 1, paragraphs 1(a), 3 to 6, 11 and 12, and article 3(1) in so far as it relates to those paragraphs;

(c) in Schedule 2, paragraphs 1(a), 6(c), 12 to 14, 16(b) and 17, and article 3(2) in so far as it relates to those paragraphs;

(d) in Schedule 3, paragraphs 2, 3(b) and (c), 5, 6, 11 to 14, 17(a), 19(a) and 26(a), and article 3(3) in so far as it relates to those paragraphs;

(e) in Schedule 4, Part 6, and article 4(1) in so far as it relates to that Part; and

(f) in Schedule 5, paragraphs 1 and 2, and article 4(2) in so far as it relates to those paragraphs.

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

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

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

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

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

(6) The following provisions come into force on the coming into force of section 44(1) of the Safeguarding Vulnerable Groups Act 2006(**2**) (registers: power to apply for vetting information)—

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

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

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

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

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

(7) Paragraph 12 of Schedule 5, and article 4(2) in so far as it relates to that paragraph, come into force on the coming into force of section 30(2) of the Protection of Vulnerable Groups (Scotland) Act 2007(**3**) (notice of listing etc.).

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

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

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

(**2**) 2006 c.47.
(**3**) 2007 asp 14.
(**4**) S.I. 2007/1351 (N.I. 11).

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

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

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

Interpretation

2. In this Order—

"the 1984 Act" means the Dentists Act 1984(**5**);

"the 2001 Order" means the Health Professions Order 2001(**6**);

"the 2007 Order" means the Pharmacists and Pharmacy Technicians Order 2007(**7**);

"AEP" means the Association of Educational Psychologists, which held its inaugural meeting at the London School of Economics on 14th April 1962 and was founded on that date(**8**);

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

(a) full members of the AEP; or

(b) affiliate members of the AEP who have been full members of the AEP at any time during the two year period immediately prior to the appointed day for practitioner psychologists;

"appointed day for practitioner psychologists" means the day on which paragraph 16(d) of Schedule 2 comes into force;

"BPS" means the British Psychological Society, which was incorporated by Royal Charter on 26th February 1965(**9**);

"BPS register" means the aggregate of the entries in the register maintained by the BPS that relate to holders of practising certificates who are or have been full members of one or more of the divisions of the BPS in respect of the following branches of psychology: clinical psychology; counselling psychology; educational psychology; forensic psychology; health psychology; occupational psychology; and sport and exercise psychology;

"HPC" means the Health Professions Council established under article 3 of the 2001 Order;

"HPC register" means the register maintained under article 5 of the 2001 Order; and

"the principal measures" means the 1984 Act, the 2001 Order and the 2007 Order.

Amendments to the principal measures

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

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

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

(**5**) 1984 c.24.
(**6**) S.I. 2002/254.
(**7**) S.I. 2007/289.
(**8**) The Association of Educational Psychologists is at 4 The Riverside Centre, Frankland Lane, Durham, DH1 5TA.
(**9**) The British Psychological Society is at St Andrews House, 48 Princess Road East, Leicester, LE1 7DR. The Society's Royal Charter has been amended six times, and is available, in its amended form, on the Society's website at www.bps.org.uk.

Amendments to and revocations of other legislation

4.—(1) The amendments to and revocations of subordinate legislation set out in Schedule 4 have effect.

(2) The amendments to Acts of Parliament, Acts of the Scottish Parliament and Northern Ireland legislation set out in Schedule 5 have effect.

(3) The references in articles 9(4)(a), 13(1)(b) and 39(2) of the 2001 Order to the coming into force of an order under article 6(1) of the Order in relation to a profession include a reference to the coming into force in relation to a profession of paragraph 8 of Schedule 4.

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

5.—(1) The HPC and the BPS, and the HPC and the AEP, shall enter into arrangements (which may include financial arrangements) to facilitate the introduction of the new arrangements for the statutory regulation of practitioner psychologists arising out of this Order.

(2) The arrangements entered into under paragraph (1) shall include arrangements to ensure that all the names in the BPS register and the AEP register which are to be entered in the HPC register with effect from the appointed day for practitioner psychologists are so entered.

(3) Subject to paragraphs (5) and (6), if on the day before the appointed day for practitioner psychologists a person's name is included in the BPS register or the AEP register (or both), the person shall be registered in the part of the HPC register which relates to practitioner psychologists with effect from the appointed day for practitioner psychologists.

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

(a) may determine that the person's name is to be entered in the part of the HPC register which relates to practitioner psychologists; and

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

(5) If on the day before the appointed day for practitioner psychologists a person's name is included in the BPS register or the AEP register but—

(a) the person's registration is suspended (whether temporarily or permanently); or

(b) the person is the subject of proceedings which could lead to the person's removal or suspension from the BPS register or the AEP register,

paragraph (6) applies.

(6) In the circumstances described in paragraph (5), the HPC—

(a) may determine that the person's name is not to be entered in the part of the HPC register which relates to practitioner psychologists; and

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

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

(8) Subject to paragraph (9), the Privy Council may—

(a) with the consent of the BPS, by order provide for the transfer from the BPS to the HPC of any property, rights or liabilities;

(b) with the consent of the AEP, by order provide for the transfer from the AEP to the HPC of any property, rights or liabilities,

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

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

Saving provisions relating to procedures for making or approving legislation

6.—(1) The amendments made to—

(a) section 51(**10**) (exercise of powers conferred on the Privy Council) of the 1984 Act by virtue of paragraph 11 of Schedule 1;

(b) article 42 (exercise of powers by the Privy Council) of the 2001 Order by virtue of paragraph 12 of Schedule 2; and

(c) articles 66 (rules) and 69 (Privy Council procedures etc.) of the 2007 Order by virtue of paragraphs 24 and 25 of Schedule 3,

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

(2) Accordingly, such rules, regulations and orders—

(a) shall continue to have effect notwithstanding the coming into force of those amendments; and

(b) may be amended or revoked by rules, regulations or orders made or approved using the altered procedure.

Transitional and saving measures relating to the General Dental Council

7.—(1) The Privy Council may, by a direction under subsection (1) of section 60 of the Health Act 2006(**11**) (Commission to exercise Privy Council's appointment functions), require the Appointments Commission to appoint the person who held office as President of the General Dental Council on the day before the relevant order comes into force as a member of the General Dental Council as constituted on the day the relevant order comes into force.

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

(3) For the purposes of paragraphs (1) and (2), "relevant order" means the first order of the Privy Council under section 1(2A) of the 1984 Act(**12**) that includes provision required by paragraph 1B(1) of Schedule 1 to that Act.

(4) On and after the day on which this article comes into force, subsection (3) of section 3 of the 1984 Act(**13**) (power of medical authorities to hold examinations and grant licences in dentistry) shall apply as if the reference to universities or other bodies who choose appointed members of the General Medical Council were a reference to—

(a) the universities or other bodies who were entitled to choose those members on 31st December 2008; and

(b) such other universities or other bodies as the Privy Council designates by order for the purposes of this paragraph.

(**10**) 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.
(**11**) 2006 c.28.
(**12**) Subsection (2A) of section 1 was inserted by S.I. 2001/3926 and substituted by S.I. 2005/2011.
(**13**) Section 3(3) was amended by S.I. 1987/2047.