Draft Order in Council laid before Parliament under section 62(9) of the Health Act 1999, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2008 No. 000

HEALTH CARE AND ASSOCIATED PROFESSIONS

The Health Care and Associated Professions (Miscellaneous Amendments) Order 2008

Made - - - - 2008

Coming into force in accordance with article 1(2) to (5)

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(**1**).

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

The period of three months mentioned in paragraph 9(2) of that Schedule expired before a draft of this Order in Council was laid before Parliament.

A draft of this Order in Council has been approved by resolution of each House of Parliament, in accordance with section 62(9) 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), and by S.I. 2002/253 and 254; subsection (4) of 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 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, and the Health Act 2006 (c.28), section 33, and by S.I. 2002/254.

Citation and commencement

1.—(1) This Order may be cited as the Health Care and Associated Professions (Miscellaneous Amendments) Order 2008.

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

(a) this article and articles 5 to 7;

(b) in Schedule 1, paragraphs 2, 9 to 14 and 20(a), and article 2(1) in so far as it relates to those provisions;

(c) in Schedule 2, sub-paragraph (7) of paragraph 6, and sub-paragraph (1) of that paragraph in so far as it relates to sub-paragraph (7), and article 2(2) in so far as it relates to those provisions;

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

(e) in Schedule 4, paragraphs 1(a), 3 and 8, and article 2(4) in so far as it relates to those provisions.

(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) 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) paragraph 15 of Schedule 1, and article 2(1) in so far as it relates to that paragraph;

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

(c) paragraph 4 of Schedule 3, and article 2(3) in so far as it relates to that paragraph; and

(d) paragraph 4 of Schedule 4, and article 2(4) in so far as it relates to that paragraph.

(5) Except as provided for by paragraphs (2) to (4), this Order comes into force on such day as the Privy Council may by order appoint.

(6) Different days may be appointed by an order under paragraph (5) for different provisions or different purposes.

Principal amendments

2.—(1) The amendments to the Medical Act 1983(**3**) set out in Schedule 1 have effect.

(2) The amendments to the Opticians Act 1989(**4**) set out in Schedule 2 have effect.

(3) The amendments to the Osteopaths Act 1993(**5**) set out in Schedule 3 have effect.

(4) The amendments to the Chiropractors Act 1994(**6**) set out in Schedule 4 have effect.

Consequential amendment and revocations

3.—(1) The amendment of the Dentists Acts 1984(**7**) set out in Part 1 of Schedule 5 has effect.

(2) The revocations of subordinate legislation set out in Part 2 of Schedule 5 have effect.

(**2**) 2006 c.47.
(**3**) 1983 c.54.
(**4**) 1989 c.44.
(**5**) 1993 c.21.
(**6**) 1994 c.17.
(**7**) 1984 c.24.

Transitional measures relating to re-appointment of presidents and chairs as members of the newly constituted councils

4. The Privy Council may, by a direction under subsection (1) of section 60 of the Health Act 2006(**8**) (Commission to exercise Privy Council's appointment functions), require the Appointments Commission—

(a) to appoint the person who held office as president of the General Medical Council on the day before the first order of the Privy Council under section 1(2) of the Medical Act 1983 comes into force as a member of the General Medical Council as constituted on the day the first order of the Privy Council under section 1(2) of that Act comes into force;

(b) to appoint the person who held office as chairman of the General Optical Council on the day before the first order of the Privy Council under section 1(4) of the Opticians Act 1989 comes into force as a member of the General Optical Council as constituted on the day the first order of the Privy Council under section 1(4) of that Act comes into force;

(c) to appoint the person who held office as Chairman of the General Osteopathic Council on the day before the first order of the Privy Council under section 1(4) of the Osteopaths Act 1993 comes into force as a member of the General Osteopathic Council as constituted on the day the first order of the Privy Council under section 1(4) of that Act comes into force; and

(d) to appoint the person who held office as Chairman of the General Chiropractic Council on the day before the first order of the Privy Council under section 1(4) of the Chiropractors Act 1994 comes into force as a member of the General Chiropractic Council as constituted on the day the first order of the Privy Council under section 1(4) of that Act comes into force.

Saving measure relating to the definition of "medical authority" in section 3(3) of the Dentists Act 1984

5. On and after the day on which paragraph 21(2) of Schedule 1 comes fully into force, subsection (3) of section 3 of the Dentists Act 1984(**9**) (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 the universities or other bodies who were entitled to choose those members immediately before paragraph 21(2) of Schedule 1 came fully into force.

Transitional, transitory or saving provisions orders

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

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

(a) so as to make different provision—

(i) with respect to different cases or different classes of cases, or

(ii) in respect of the same case or class of case for different purposes;

(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.

(**8**) 2006 c.28.
(**9**) Section 3(3) has been amended by S.I. 1987/2047.

Privy Council procedures etc.

7.—(1) The power of the Privy Council to make an order under article 1(5) or 6(1) may be exercised by any two or more members of the Privy Council.

(2) The making of an order under article 1(5) or 6(1) shall be sufficiently signified by an instrument signed by the Clerk of the Privy Council.

(3) The power to make an order under article 1(5) or 6(1) shall be exercisable by statutory instrument.

(4) For the purposes of section 1 of the Statutory Instruments Act 1946(**10**) (definition of "Statutory Instrument"), paragraph (3) shall have effect as if contained in an Act of Parliament.

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

(a) the fact that the order was duly made; and

(b) the order's terms.

Name
Clerk of the Privy Council

(**10**) 1946 c.36; section 1 has been amended by the Government of Wales Act 1998 (c.38), Schedule 12, paragraph 2.

SCHEDULE 1 Article 2(1)

Amendments to the Medical Act 1983

Amendment of section 1

1. In section 1 (the General Medical Council), for subsection (2) substitute the following subsection—

"(2) The General Council shall be constituted as provided for by order of the Privy Council, subject to Part 1 of Schedule 1 to this Act."

Amendment of section 2

2. In section 2(**11**) (registration of medical practitioners), in subsection (2)—

(a) for "three lists, namely" substitute "the following lists"; and

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

"(aa) if anyone is registered under section 18A, the emergency powers doctors list,".

Amendment of section 4

3. In section 4(**12**) (qualifying examinations and primary United Kingdom qualifications)—

(a) for subsections (1) and (2) substitute the following subsections—

"(1) Subject to the provisions of this Part of this Act, a qualifying examination for the purposes of this Part of this Act is an examination held for the purpose of granting one or more primary United Kingdom qualifications by any one of the bodies or combinations of bodies in the United Kingdom which are included in a list maintained by the General Council of the bodies and combinations of bodies entitled to hold such examinations.

(1A) The General Council may from time to time amend the list.

(1B) The list maintained under subsection (1) shall be published in such manner as the General Council see fit.

(1C) The General Council shall only include in the list maintained under subsection (1) bodies or combinations of bodies that require from candidates at examinations a standard of proficiency that conforms to the prescribed standard of proficiency.

(1D) If the General Council have formed the provisional opinion that a body or combination of bodies included in the list maintained under subsection (1) should be removed from the list, they shall notify that opinion in writing to the body or combination of bodies concerned and shall allow them a reasonable opportunity to respond before determining whether or not to remove the body or combination of bodies from the list.";

(b) in subsection (3)(a), for "any university in the United Kingdom" substitute "a body or combination of bodies included in the list maintained under subsection (1)";

(c) in subsection (4), for "universities and other bodies specified in subsection (3) above" substitute "bodies and combinations of bodies included in the list maintained under subsection (1)"; and

(**11**) Section 2 has been amended by S.I. 1996/1591, 2002/3135 and 2006/1914.
(**12**) Section 4 has been amended by the Medical Qualifications (Amendment) Act 1991 (c. 38), section 1, and by S.I. 1996/1591, 2000/1841, 2004/1947, 2007/1386 and 2008/1037.