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 Medical Profession (Miscellaneous Amendments) Order 2008

Made - - - - 2008

Coming into force in accordance with article 1(2) to (4)

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 was amended by section 26(9) of the National Health Service Reform and Health Care Professions Act 2002 (c.17) ("the 2002 Act") and by S.I. 2002/253 and 2002/254. Section 62(4) was amended by paragraph 197 of Schedule 1 to the National Health Service (Consequential Provisions) Act 2006 (c.43) and Schedule 4 to that Act. Schedule 3 was amended by section 26(10) of the 2002 Act, paragraph 67 of Schedule 11 to the Health and Social Care (Community Health and Standards) Act 2003 (c.43) ("the 2003 Act"), Part 4 of Schedule 14 to the 2003 Act and section 33 of the Health Act 2006 (c.28), paragraphs 5(4) and 8(a) of Schedule 8 to the Health and Social Care Act 2008 (c.41) ("the 2008 Act"), and by S.I. 2002/254. Further amendments to sections 60 and 62(4) of, and Schedule 3 to, the Health Act 1999 are contained in Schedules 8 and 10 to the 2008 Act but these had not been commenced when this Order was made.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Medical Profession (Miscellaneous Amendments) Order 2008.

(2) This article and articles 5 and 6 come into force on the day after the day on which this Order is made.

(3) Articles 2 and 3(1), and Part 1 of Schedule 1, come into force on 1st January 2009.

(4) Except as provided by paragraphs (2) and (3), this Order comes into force on such day as the Privy Council may by order appoint.

(5) Different days may be appointed by an order under paragraph (4) for different provisions or different purposes.

(6) In this Order—

"the 1983 Act" means the Medical Act 1983(**2**);

"the 2003 Order" means the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003(**3**); and

"the General Council" means the General Medical Council.

Transfer of medical education functions to the General Council

2.—(1) The statutory committees of the General Council shall cease to include the committee known as the Education Committee.

(2) With effect from the date on which this article comes into force—

(a) all medical education functions shall be exercisable by the General Council; and

(b) any determination made or other thing done by the Education Committee before that date shall be treated as if it had been made or done by the General Council.

(3) In this article—

"medical education functions" means all the functions under the 1983 Act which immediately before the date on which this article comes into force were exercisable by the Education Committee of the General Council; and

"the statutory committees", in relation to the General Council, means the committees which the Council must have under section 1 of the 1983 Act (the General Medical Council).

Amendments to the 1983 Act

3.—(1) Part 1 of Schedule 1 to this Order makes amendments to the 1983 Act relating to medical education, including amendments consequential on article 2.

(2) Part 2 of Schedule 1 to this Order further amends the 1983 Act in connection with licences to practise and revalidation of medical practitioners.

Amendments to the 2003 Order

4. Schedule 2 to this Order amends the 2003 Order to provide that certain persons who were consultants immediately before 1st January 1997 may, in accordance with a scheme to be published by the General Council, be entered on the Specialist Register.

(**2**) 1983 c.54.
(**3**) S.I. 2003/1250.

Transitional, transitory or saving provisions orders

5.—(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.

Privy Council procedures etc.

6.—(1) The power of the Privy Council to make an order under article 1(4) or 5(1) may be exercised by any two or more members of the Privy Council.

(2) The making of an order under article 1(4) or 5(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(4) or 5(1) shall be exercisable by statutory instrument.

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

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

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

(b) the order's terms.

Name
Clerk of the Privy Council

(**4**) 1946 c.36. Section 1 was amended by paragraph 2 of Schedule 12 to the Government of Wales Act 1998 (c.38).

SCHEDULE 1 Article 3

Amendments to the Medical Act 1983

PART 1

Transfer of medical education functions to the General Medical Council

Amendment of section 1

1. In section 1(**5**) (the General Medical Council)—

(a) in subsection (3), omit paragraph (a); and

(b) in subsection (3A), for "paragraphs (a), (c), (d) and (e)" substitute "paragraphs (c), (d) and (e)".

Amendment of section 10A

2.—(1) Amend section 10A(**6**) (programmes for provisionally registered doctors) as follows.

(2) In subsection (1), for "the Education Committee" substitute "the General Council".

(3) In subsection (2)—

(a) for "the Education Committee" substitute "the General Council"; and

(b) in paragraph (a), omit the words ", subject to any provision made in an order under subsection (3)".

(4) Omit subsection (3).

(5) In subsection (4), for "the Education Committee" substitute "the General Council".

(6) Omit subsection (6).

(7) In subsection (7), for "the Education Committee" (in both places) substitute "the General Council".

(8) In subsection (8), for "the Education Committee" substitute "the General Council".

Amendment of section 50

3.—(1) Amend section 50(**7**) (default powers of the Privy Council) as follows.

(2) In subsection (1)—

(a) in paragraph (a), for "the Education Committee" substitute "the General Council";

(b) in paragraph (b), for "the General Council or the Education Committee" substitute "the General Council"; and

(c) in the words following paragraph (b) omit "or that Committee as the case requires".

(3) Omit subsection (3).

(**5**) Section 1(3) and (3A) of the Medical Act 1983 (c.54) are as substituted by S.I. 2002/3135 and amended by paragraph 2 of Schedule 7 to the Health and Social Care Act 2008. Subsection (3) was also amended by S.I. 2006/1914.
(**6**) Section 10A was inserted by S.I. 2006/1914 and amended by S.I. 2007/3101.
(**7**) Section 50 was amended by S.I. 2002/3135 and 2006/1914.

Amendment of section 51

4. In section 51(**8**) (exercise of powers to make Orders in Council and other orders), in subsection (3)(b), omit "10A(3) or".

Amendment of Schedule 1

5.—(1) Amend Schedule 1(**9**) as follows.

(2) In paragraph 15(3), omit "other than the Education Committee".

(3) Omit paragraph 19 (composition of the Education Committee) and the heading immediately before it.

(4) In paragraph 25(3), omit the words from "but the determination of the remuneration" to the end.

Repeal of paragraph 14 of Schedule 6

6. Omit paragraph 14 of Schedule 6 (transitional and saving provisions).

Substitution of references to the Education Committee

7.—(1) This paragraph applies to any provision of the 1983 Act (apart from those amended by paragraphs 1 to 6) which contains a reference to "the Education Committee", and including the heading to any section of that Act.

(2) For each reference to "the Education Committee" substitute "the General Council".

(3) Where the provision also contains a reference to the Education Committee as "the Committee", for the words "the Committee" substitute "the General Council".

PART 2

Licence to practise and revalidation

Amendment of section 29A

8.—(1) Amend section 29A(**10**) (regulations as to licence to practise and revalidation) as follows.

(2) In subsection (4), (regulations as to licence to practise and revalidation), for paragraph (d) substitute—

"(d) revalidation of a medical practitioner of a prescribed description whenever a licensing authority sees fit to do so, either as a condition of the practitioner's continuing to hold a licence to practise or of the practitioner's licence to practise being restored.".

(3) In subsection (5)—

(a) before the definition of "licensing authority" insert—

""General Practitioner Register" means the register maintained by the General Council pursuant to article 10(1) of the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003(**11**);";

(**8**) Section 51(3) was substituted by S.I. 2006/1914 and amended by S.I. 2008/1774.
(**9**) Paragraph 15(3) was amended by S.I. 2006/1914 and 2008/1774. Paragraph 19 is as substituted by S.I. 2002/3135. Paragraph 25(3) was amended by S.I. 2006/1914.
(**10**) Part 3A of the Medical Act 1983 (c.54) is comprised of sections 29A to 29J. Part 3A was inserted by S.I. 2002/3135. Section 29A(4) was amended by S.I 2006/1914.
(**11**) S.I. 2003/1250.