

SCHEDULE

Article 3

CONSEQUENTIAL AMENDMENTS TO PRIMARY AND SECONDARY LEGISLATION

PART 1

CONSEQUENTIAL AMENDMENTS TO PRIMARY LEGISLATION

Data Protection Act 1998

1. In section 69 of the Data Protection Act 1998(1) (meaning of “health professional”), in subsection (1)—

- (a) in paragraph (i), for “, child psychotherapist or speech therapist” substitute “or child psychotherapist”; and
- (b) omit paragraph (j).

National Health Service (Scotland) Act 1978

2. In section 27 of the National Health Service (Scotland) Act 1978(2) (arrangements for provision of pharmaceutical services), in subsection (1A), for paragraph (a) substitute—

- “(a) persons who are registered in the register maintained under article 5 of the Health Professions Order 2001;”.

National Health Service Act 1977

3. In section 41 of the National Health Service Act 1977(3) (arrangements for pharmaceutical services), in subsection (3), for paragraph (a) substitute—

- “(a) persons who are registered in the register maintained under article 5 of the Health Professions Order 2001;”.

Race Relations Act 1976

4. In Schedule 1A to the Race Relations Act 1976(4) (bodies and other persons subject to general statutory duty), in Part II (bodies and other persons added after commencement of general statutory duty)—

- (a) in the section headed “Health”, omit “The Council for Professions Supplementary to Medicine, in respect of its public functions.”; and
- (b) in the section headed “Regulatory, audit and inspection”, after the entry for the General Social Care Council, insert “The Health Professions Council.”.

National Health Service (Scotland) Act 1972

5. In section 32 of the National Health Service (Scotland) Act 1972(5) (transfer of staff employed for purposes of public health), in subsection (3), for paragraph (d) substitute—

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- (1) 1998 c. 29. A relevant amendment was made by S.I.2002/254.
 - (2) 1978 c. 29. Subsection (1A) of section 27 was inserted by the Health and Social Care Act 2001 (c. 15), section 44.
 - (3) 1977 c. 49. Section 41 was substituted by the Health and Social Care Act 2001, section 42, and a relevant amendment was made by the National Health Service Reform and Health Care Professions Act 2002 (c. 17), section 2(5) and Schedule 2.
 - (4) 1976 c. 74. Schedule 1A was inserted by the Race Relations (Amendment) Act 2000 (c. 34), section 2(2) and Schedule 1, and relevant amendments to that Schedule were made by S.I. 2001/3457.
 - (5) 1972 c. 58.

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“(d) persons who are registered in the register maintained under article 5 of the Health Professions Order 2001;”.

Medicines Act 1968

6. In section 58 of the Medicines Act 1968(6) (medicinal products on prescription only), in subsection (1A), for paragraph (a) substitute—

“(a) persons who are registered in the register maintained under article 5 of the Health Professions Order 2001;”.

PART 2

CONSEQUENTIAL AMENDMENTS TO SECONDARY LEGISLATION

Rehabilitation of Offenders Act 1974 (Exclusion and Exceptions) (Scotland) Order 2003

7. In Schedule 4 to the Rehabilitation of Offenders Act 1974 (Exclusion and Exceptions) (Scotland) Order 2003(7) (excepted professions, offices, employments and occupations), in Part 1 (professions), for paragraph 10 substitute—

“10. Any profession to which the Health Professions Order 2001 applies and which is undertaken following registration under that Order.”

NHS Quality Improvement Scotland Order 2002

8. In the Schedule to the NHS Quality Improvement Scotland Order 2002(8) (enactments applied to the Board), in Part III (enactments other than Acts of Parliament), in the first entry in Column 2 (nature of provision), for “Professions Supplementary to Medicine Act 1960” substitute “Health Professions Order 2001”.

National Waiting Times Centre Board (Scotland) Order 2002

9. In the Schedule to the National Waiting Times Centre Board (Scotland) Order 2002(9) (enactments applied to the Board), in Part III (enactments other than Acts), in the first entry in Column 2 (nature of provision), for “Professions Supplementary to Medicine Act 1960” substitute “Health Professions Order 2001”.

Adults with Incapacity (Ethics Committee) (Scotland) Regulations 2002

10. In regulation 3 of the Adults with Incapacity (Ethics Committee) (Scotland) Regulations 2002(10) (membership of the Committee), in paragraph (3)(h), for “Professions Supplementary to Medicine Act 1960” substitute “Health Professions Order 2001”.

(6) 1968 c. 67. A relevant amendment was made by the Health and Social Care Act 2001, section 63.

(7) S.S.I. 2003/231.

(8) S.S.I. 2002/534. There are no relevant amendments.

(9) S.S.I. 2002/305. There are no relevant amendments.

(10) S.S.I. 2002/190.

Regulation of Care (Requirements as to Care Services) (Scotland) Regulations 2002

11. In regulation 1 of the Regulation of Care (Requirements as to Care Services) (Scotland) Regulations 2002(11) (citation, commencement and interpretation), in paragraph (2)(f), for “Professions Supplementary to Medicine Act 1960” substitute “Health Professions Order 2001”.

Scottish Commission for the Regulation of Care (Appointments and Procedure) Regulations 2002

12. In regulation 4 of the Scottish Commission for the Regulation of Care (Appointments and Procedure) Regulations 2002(12) (disqualification for appointment), in paragraph (5)(f), for “Professions Supplementary to Medicine Act 1960” substitute “Health Professions Order 2001”.

NHS Education for Scotland Order 2002

13. In the Schedule to the NHS Education for Scotland Order 2002(13) (enactments applied to the Board), in Part III (enactments other than Acts of Parliament), in the first entry in Column 2 (nature of provision), for “Professions Supplementary to Medicine Act 1960” substitute “Health Professions Order 2001”.

Care Homes Regulations 2001

14. In regulation 2 of the Care Homes Regulations 2001(14) (interpretation), in the definition of “health care professional”, for “, child psychotherapist or speech therapist” substitute “or child psychotherapist”.

General Social Care Council (Appointments and Procedure) Regulations 2001

15. In regulation 4 of the General Social Care Council (Appointments and Procedure) Regulations 2001(15) (disqualification for appointment), in paragraph (7)(e), for “Professions Supplementary to Medicine Act 1960” substitute “Health Professions Order 2001”.

National Care Standards Commission (Membership and Procedure) Regulations 2001

16. In regulation 1 of the National Care Standards Commission (Membership and Procedure) Regulations 2001(16) (citation, commencement and interpretation), in the definition of “health professional”, for “, child psychotherapist or speech therapist” substitute “or child psychotherapist”.

Scottish Social Services Council (Consultation on Codes of Practice) Order 2001

17. In article 2 of the Scottish Social Services Council (Consultation on Codes of Practice) Order 2001(17) (consultation on codes of practice), for paragraph (i) substitute—

“(i) the Health Professions Council established under article 3 of the Health Professions Order 2001;”.

(11) [S.S.I. 2002/114](#). The relevant amending instrument is [S.S.I. 2003/149](#).

(12) [S.S.I. 2002/106](#).

(13) [S.S.I. 2002/103](#). There are no relevant amendments.

(14) [S.I. 2001/3965](#). There are no relevant amendments.

(15) [S.I. 2001/1744](#). There are no relevant amendments.

(16) [S.I. 2001/1042](#). There are no relevant amendments.

(17) [S.S.I. 2001/424](#).

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Scottish Social Services Council (Appointments, Procedure and Access to the Register) Regulations 2001

18. In article 4 of the Scottish Social Services Council (Appointments, Procedure and Access to the Register) Regulations 2001(**18**) (disqualification for appointment), in paragraph (5)(f), for “Professions Supplementary to Medicine Act 1960” substitute “Health Professions Order 2001”.

NHS 24 (Scotland) Order 2001

19. In the Schedule to the NHS 24 (Scotland) Order 2001(**19**) (enactments applied to the Board), in Part III (enactments other than Acts of Parliament), in the first entry in Column 2 (nature of provision), for “Professions Supplementary to Medicine Act 1960” substitute “Health Professions Order 2001”.

Scottish Ambulance Service Board Order 1999

20. In the Schedule to the Scottish Ambulance Service Board Order 1999(**20**) (enactments applied to the Board), in Part III (enactments other than Acts of Parliament), in the first entry in Column 2 (nature of provision), for “Professions Supplementary to Medicine Act 1960” substitute “Health Professions Order 2001”.

Prescription Only Medicines (Human Use) Order 1997

21.—(1) The Prescription Only Medicines (Human Use) Order 1997(**21**) is amended in accordance with this paragraph.

(2) In article 1 (citation, commencement and interpretation)—

(a) insert each of the following definitions at the appropriate alphabetical place—

““registered chiroprapist” means a person who is registered in Part 2 of the register maintained by the Health Professions Council under article 5 of the Health Professions Order 2001;”;

““registered orthoptist” means a person who is registered in Part 7 of the register maintained by the Health Professions Council under article 5 of the Health Professions Order 2001;

““registered paramedic” means a person who is registered in Part 8 of the register maintained by the Health Professions Council under article 5 of the Health Professions Order 2001;”;

““registered physiotherapist” means a person who is registered in Part 9 of the register maintained by the Health Professions Council under article 5 of the Health Professions Order 2001;”;

““registered radiographer” means a person who is registered in Part 11 of the register maintained by the Health Professions Council under article 5 of the Health Professions Order 2001;”;

(b) omit the definitions of “state registered chiroprapist” and “state registered paramedic”.

(3) In Schedule 5 (exemption for certain persons from section 58(2) of the Act)—

(a) in Part I (exemption from restrictions on sale or supply), in column 1, in paragraph 10 (chiroprapists)—

(i) omit “State”, and

(18) S.S.I. 2001/303. There are no relevant amendments.

(19) S.S.I. 2001/137. There are no relevant amendments.

(20) S.I. 1999/686. There are no relevant amendments.

(21) S.I. 1997/1830. The relevant amending instruments are S.I. 1998/108, 2000/1917 and 2899, 2002/549 and 2003/696.

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- (ii) after “Board”, insert “or the Health Professions Council”; and
- (b) in Part III (exemptions from restriction on administration)—
 - (i) in paragraph 1 (chiropractors)—
 - (aa) omit “State”, and
 - (bb) after “Board”, insert “or the Health Professions Council”,
 - (ii) in paragraph 9 (paramedics), for “state registered” substitute “registered”.
- (4) In Schedule 7 (which relates to further exemptions for health professionals from restrictions on the supply or administration of prescription only medicines), in Part III (classes of individual by whom prescription only medicines may be supplied or administered)—
 - (a) for the first entry (paramedics) substitute—

“Registered paramedics or individuals who hold a certificate of proficiency in ambulance paramedic skills issued by, or with the approval of, the Secretary of State.”;
 - (b) in the seventh entry (chiropractors), for “State registered” substitute “Registered”; and
 - (c) for the last three entries (orthoptists, physiotherapists and radiographers) substitute—

“Registered orthoptists.
Registered physiotherapists.
Registered radiographers.”.

State Hospitals Board for Scotland Order 1995

22. In the Schedule to the State Hospitals Board for Scotland Order 1995(**22**) (enactments applied to the Board), in Part III (enactments other than Acts of Parliament), in the first entry in Column 2 (nature of provision), for “Professions Supplementary to Medicine Act 1960” substitute “Health Professions Order 2001”.

Health Education Board for Scotland Order 1990

23. In the Schedule to the Health Education Board for Scotland Order 1990(**23**) (enactments applied to the Board), in Part III (enactments other than Acts of Parliament), in the first entry in Column 2 (nature of provision), for “Professions Supplementary to Medicine Act 1960” substitute “Health Professions Order 2001”.

Medicines (Pharmacy and General Sale—Exemption) Order 1980

- 24.** In the Medicines (Pharmacy and General Sale—Exemption) Order 1980(**24**)—
 - (a) in article 1 (citation, commencement and interpretation)—
 - (i) insert each of the following definitions at the appropriate alphabetical place—

““registered chiropractor” means a person who is registered in Part 2 of the register maintained by the Health Professions Council under article 5 of the Health Professions Order 2001.”;

““registered orthoptist” means a person who is registered in Part 7 of the register maintained by the Health Professions Council under article 5 of the Health Professions Order 2001.”;

(22) S.I. 1995/574.

(23) S.I. 1990/2639. The relevant amending instrument is S.S.I. 2003/154.

(24) S.I. 1980/1924. The relevant amending instruments are S.I. 2000/1919, 2002/880 and 2003/697.

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““registered paramedic” means a person who is registered in Part 8 of the register maintained by the Health Professions Council under article 5 of the Health Professions Order 2001;”;

““registered physiotherapist” means a person who is registered in Part 9 of the register maintained by the Health Professions Council under article 5 of the Health Professions Order 2001;”;

““registered radiographer” means a person who is registered in Part 11 of the register maintained by the Health Professions Council under article 5 of the Health Professions Order 2001;”, and

(ii) omit the definition of “state registered chiropractist”; and

(b) in Schedule 3 (which relates to patient group directions), in Part III (classes of individual by whom supplies may be made)—

(i) for the first entry (paramedics) substitute—

“Registered paramedics or individuals who hold a certificate of proficiency in ambulance paramedic skills issued by, or with the approval of, the Secretary of State.”.

(ii) in the seventh entry (chiropractists), for “State registered” substitute “Registered”.

(iii) for the last three entries (orthoptists, physiotherapists and radiographers) substitute—

“Registered orthoptists.

Registered physiotherapists.

Registered radiographers.”.

Medicines (Labelling and Advertising to the Public) Regulations 1978

25. In regulation 5 of the Medicines (Labelling and Advertising to the Public) Regulations 1978(**25**) (prohibition of representations), in paragraph (2)(b), for “on the register maintained pursuant to paragraph 11 of Schedule 2 to the Health Professions Order 2001 in respect of chiropractists” substitute “in Part 2 of the register maintained under article 5 of the Health Professions Order 2001”.

Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975

26. In Schedule 1 to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975(**26**) (excepted professions, offices, employments, work and occupations), in Part I (professions), in paragraph 10, for “Professions Supplementary to Medicine Act 1960” substitute “Health Professions Order 2001”.

National Health Service (Professions Supplementary to Medicine) Regulations 1974

27.—(1) The National Health Service (Professions Supplementary to Medicine) Regulations 1974(**27**) are amended in accordance with this paragraph.

(2) In regulation 2 (interpretation), for paragraph (2) substitute—

(25) S.I. 1978/41. The relevant amending instrument is S.I. 2002/880.

(26) S.I. 1975/1023. The relevant amending instrument is S.I. 2002/1192.

(27) S.I. 1974/494. The relevant amending instruments are S.I. 1978/1090 and 2000/523 and 880.

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“(2) For the purposes of these Regulations a person is registered in respect of a profession if he is registered in the register maintained under article 5 of the Health Professions Order 2001(28) in the part of the register which relates to that profession.”.

(3) In regulation 3 (employment of officers), after paragraph (1A) insert—

“(1B) No person shall be employed as an officer of an authority to which this regulation applies, in the capacity of clinical scientist or paramedic unless—

- (a) he is registered in respect of that profession; or
- (b) he is a person who has never been registered as a clinical scientist or paramedic, but who immediately before 9th July 2003 was employed in that capacity by an authority to which this regulation applies.

(1C) No person shall be employed as an officer of an authority to which this regulation applies, in the capacity of speech and language therapist unless—

- (a) he is registered in respect of that profession; or
- (b) he is a person who satisfies one of the conditions set out in regulation 3 of the National Health Service (Speech Therapists) Regulations 1974(29) (employment of officers).”.

National Health Service (Professions Supplementary to Medicine) (Scotland) Regulations 1974

28.—(1) The National Health Service (Professions Supplementary to Medicine) (Scotland) Regulations 1974(30) are amended in accordance with this paragraph.

(2) In regulation 2 (interpretation), for paragraph (2) substitute—

“(2) For the purposes of these Regulations a person is registered in respect of a profession if he is registered in the register maintained under article 5 of the Health Professions Order 2001 in the part of the register which relates to that profession.”.

(3) In regulation 3 (employment of officers)—

- (a) after “chiroprapist,” insert “clinical scientist,”;
- (b) after “orthotist,” insert “paramedic,”;
- (c) for “or radiographer” substitute “, radiographer or speech and language therapist”;
- (d) after paragraph (c), add—

“; or

- (d) he is a person who has never been registered as a clinical scientist, paramedic or speech and language therapist, but who immediately before 9th July 2003 was employed by a Health Board in the capacity of clinical scientist, paramedic or speech and language therapist.”.

National Health Service (Speech Therapists) Regulations 1974

29. In regulation 3 of the National Health Service (Speech Therapists) Regulations 1974(31) (employment of officers), after paragraph (4) add—

“(5) He is registered in Part 12 of the register maintained under article 5 of the Health Professions Order 2001.”.

(28) S.I. 2002/254.

(29) S.I. 1974/495. The relevant amending instruments are S.I. 1985/47 and 2002/2469.

(30) S.I. 1974/549. The relevant amending instrument is S.S.I. 2000/202.

(31) S.I. 1974/495. The relevant amending instruments are S.I. 1985/47 and 2002/2469.

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Judicial Committee (Professions Supplementary to Medicine Rules) Order 1964

30. In the Schedule to the Judicial Committee (Professions Supplementary to Medicine Rules) Order 1964⁽³²⁾—

- (a) in rule 1, omit the definition of “The Board” and after the definition of “The Committee”, insert—

““The Council” means the Health Professions Council.”; and

- (b) thereafter in the rules in that Schedule for “Board” in each place it occurs, substitute “Council”.

National Assistance (Professions Supplementary to Medicine) Regulations 1964

31.—(1) The National Assistance (Professions Supplementary to Medicine) Regulations 1964⁽³³⁾ are amended in accordance with this paragraph.

(2) In regulation 2 (which relates to interpretation)—

- (a) in paragraph (1), after the definition of “the Act of 1946”, add—

““the 1983 Act” means the Health and Social Services and Social Security Adjudications Act 1983⁽³⁴⁾.”; and

- (b) for paragraph (2) substitute—

“(2) For the purposes of these Regulations a person is registered in respect of a profession if he is registered in the register maintained under article 5 of the Health Professions Order 2001 in the part of the register which relates to that profession.”.

(3) In regulation 3 (which relates to employment by local authorities of health professionals to provide welfare services), for “, physiotherapist or remedial gymnast” substitute “or physiotherapist”.

(4) After regulation 3, insert—

“(3A) On and after 9th July 2003 no officer shall be employed by a district council for the purposes of Schedule 9 to the 1983 Act (minor and consequential amendments), Part II (meals and recreation for old people) or by a voluntary organisation acting under arrangements with or on behalf of a district council for those purposes in the capacity of arts therapist or speech and language therapist unless—

- (a) he is registered in respect of the profession appropriate to the work for which he is employed; or

- (b) he was on 8th July 2003 employed in a like capacity—

(i) by that district council for the purposes of Schedule 9 to the 1983 Act, or

(ii) by that or any other voluntary organisation in carrying out arrangements with or on behalf of that district council for the purposes of Schedule 9 to the 1983 Act.”.

(5) Renumber regulation 4 (which relates to the transfer of staff) as “4(1)” and, after paragraph (1), add—

“(2) Where—

- (a) by or under any enactment passed before, on or after 9th July 2003 an officer is transferred to the service of another district council; or

⁽³²⁾ S.I. 1964/1001. The relevant amending instrument is S.I. 1982/1676.

⁽³³⁾ S.I. 1964/939 as amended by S.I. 1968/271 and 2002/880.

⁽³⁴⁾ 1983 c. 41.

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(b) in any area the functions under Schedule 9 to the 1983 Act have become exercisable by a different district council,

for the purposes of these Regulations the officer shall be deemed to have been transferred and the district council shall be deemed to have been exercising those functions on 8th July 2003 and references to employment by a district council or by a voluntary organisation in carrying out arrangements with or on behalf of a district council on that date shall be construed accordingly.”.