

## SCHEDULE 4

### Amendments to and revocations of subordinate legislation

## PART 2

### Amendments relating to barring entries

#### **Amendment of the General Osteopathic Council (Professional Conduct Committee) (Procedure) Rules 2000**

**19.** After rule 26 of the General Osteopathic Council (Professional Conduct Committee) (Procedure) Rules 2000(1), insert the following rule—

##### **“Cases relating to barring entries**

**26A.**—(1) In cases relating to barring entries, the order of proceedings shall be as follows—

- (a) the Solicitor shall be requested to adduce evidence of any barring entry and its circumstances;
- (b) evidence relating to the barring entry, and of any findings of fact made by the Independent Barring Board or the Scottish Ministers on which that barring entry is based, may be adduced in the form of information—
  - (i) provided by the Secretary of State under the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007,
  - (ii) provided by the Scottish Ministers under the Protection of Vulnerable Groups (Scotland) Act 2007;
- (c) if in respect of any barring entry, no evidence is adduced that the barring entry has been made, the chair shall announce that the barring entry has not been proved;
- (d) the chair shall ask the osteopath (“O”) whether O accepts each barring entry of which evidence is adduced, and shall announce that any such accepted barring entry has been proved;
- (e) in respect of any barring entry not so accepted, O or O’s representative may address the Committee and adduce both oral and documentary evidence to show that O was not the person in respect of whom the barring entry was made;
- (f) thereafter the Solicitor may, with the Committee’s leave, seek to rebut any evidence of O by adducing evidence to that effect;
- (g) the Solicitor and then O or O’s representative may address the Committee.

(2) On conclusion of the proceedings in paragraph (1), the Committee shall consider each barring entry alleged in the complaint, other than those accepted or announced not to be proved, and shall determine whether or not each such barring entry is proved and then announce its determination.

(3) Where the Committee have announced that a barring entry has been proved or where a barring entry has been accepted, the chair shall—

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(1) Scheduled to [S.I. 2000/241](#).

- (a) invite the Solicitor to address the Committee and adduce any further evidence as to character and previous history of O and the circumstances leading to the barring entry, and for these purposes—
  - (i) a document from the Independent Barring Board, authenticated in whatever way the General Council may approve and adduced under paragraph (1)(a), that provides a statement of the findings of fact made by the Board that led to the barring entry shall be conclusive evidence of the facts found proved by the Board, and
  - (ii) a document from the Scottish Ministers, authenticated in whatever way the General Council may approve and adduced under paragraph (1)(a), that provides a statement of the findings of fact made by the Scottish Ministers that led to the barring entry shall be conclusive evidence of the facts found proved by the Scottish Ministers;
- (b) invite O or O’s representative to address the Committee by way of mitigation and adduce any further evidence as to the matters referred to in sub-paragraph (a).
- (4) The Solicitor and O or O’s representative, shall, if appropriate, be invited to address the Committee on whether the barring entry in question has any material relevance to the fitness of the osteopath concerned to practise osteopathy.
- (5) The Committee shall then proceed in accordance with rules 35 to 39.
- (6) For the purposes of this rule, “barring entry” means—
  - (a) the Independent Barring Board including a person in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007); or
  - (b) the Scottish Ministers including a person in the children’s list or the adults’ list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007).”

**Amendment of the General Chiropractic Council (Professional Conduct Committee) Rules 2000**

**20.** In rule 7 of the General Chiropractic Council (Professional Conduct Committee) Rules 2000(2) (evidence), after paragraph (1) insert the following paragraphs—

- “(1A) Where it is alleged that the respondent has been included in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007) by the Independent Barring Board—
- (a) information provided by the Secretary of State under the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 that attests to that inclusion shall be conclusive evidence of that inclusion, unless the respondent can prove that they are not the person referred to in the information provided; and
  - (b) a document from the Board, authenticated in whatever way the General Council may approve, that provides a statement of the findings of fact made by the Board that led to that inclusion shall be conclusive evidence of the facts found proved by the Board.
- (1B) Where it is alleged that the Scottish Ministers have included the respondent in the children’s list or the adults’ list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007)—

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(2) Scheduled to [S.I. 2000/3290](#).

- (a) information provided by the Scottish Ministers under the Protection of Vulnerable Groups (Scotland) Act 2007 that attests to that inclusion shall be conclusive evidence of that inclusion, unless the respondent can prove that they are not the person referred to in the information provided; and
- (b) a document from the Scottish Ministers, authenticated in whatever way the General Council may approve, that provides a statement of the findings of fact made by the Scottish Ministers that led to that inclusion shall be conclusive evidence of the facts found proved by the Scottish Ministers.”

### **Amendment of the Health Professions Council (Conduct and Competence Committee) (Procedure) Rules 2003**

**21.** In rule 10 of the Health Professions Council (Conduct and Competence Committee) (Procedure) Rules 2003(3), in paragraph (1), after sub-paragraph (d) insert the following sub-paragraphs—

- “(da) where it is alleged that the health professional has been included in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007) by the Independent Barring Board—
  - (i) information provided by the Secretary of State under the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 that attests to that inclusion shall be conclusive evidence of that inclusion, unless the health professional can prove that they are not the person referred to in the information provided, and
  - (ii) a document from the Board, authenticated in whatever way the Council may approve, that provides a statement of the findings of fact made by the Board that led to that inclusion shall be conclusive evidence of the facts found proved by the Board;
- (db) where it is alleged that the Scottish Ministers have included the health professional in the children’s list or the adults’ list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007)—
  - (i) information provided by the Scottish Ministers under the Protection of Vulnerable Groups (Scotland) Act 2007 that attests to that inclusion shall be conclusive evidence of that inclusion, unless the health professional can prove that they are not the person referred to in the information provided, and
  - (ii) a document from the Scottish Ministers, authenticated in whatever way the Council may approve, that provides a statement of the findings of fact made by the Scottish Ministers that led to that inclusion shall be conclusive evidence of the facts found proved by the Scottish Ministers;”.

### **Amendment of the Nursing and Midwifery Council (Fitness to Practise) Rules 2004**

**22.** In the Nursing and Midwifery Council (Fitness to Practise) Rules 2004(4), in rule 31 (evidence), after paragraph (3) insert the following paragraphs—

- “(3A) Where it is alleged that a registrant has been included in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007) by the Independent Barring Board—

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(3) Scheduled to [S.I. 2003/1575](#).

(4) Scheduled to [S.I. 2004/1761](#).

- (a) information provided by the Secretary of State under the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 that attests to that inclusion shall be conclusive proof of that inclusion, unless the registrant can prove that they are not the person referred to in the information provided; and
  - (b) a document from the Board, authenticated in whatever way the Council may approve, that provides a statement of the findings of fact made by the Board that led to that inclusion shall be conclusive proof of the facts found proved by the Board.
- (3B) Where it is alleged that the Scottish Ministers have included a registrant in the children’s list or the adults’ list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007)—
- (a) information provided by the Scottish Ministers under the Protection of Vulnerable Groups (Scotland) Act 2007 that attests to that inclusion shall be conclusive proof of that inclusion, unless the registrant can prove that they are not the person referred to in the information provided; and
  - (b) a document from the Scottish Ministers, authenticated in whatever way the Council may approve, that provides a statement of the findings of fact made by the Scottish Ministers that led to that inclusion shall be conclusive proof of the facts found proved by the Scottish Ministers.”

#### **Amendment of the General Medical Council (Fitness to Practise) Rules 2004**

- 23.** In the General Medical Council (Fitness to Practise) Rules 2004(5)—
- (a) in rule 5(2) (which relates to functions of the Registrar in certain cases), for “or (e)” substitute “, (e), (f) or (g)”; and
  - (b) in rule 34 (evidence), after paragraph (5) insert the following paragraphs—
    - “(5A) Where it is alleged that a practitioner has been included in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007) by the Independent Barring Board—
      - (a) information provided by the Secretary of State under the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 that attests to that inclusion shall be conclusive evidence of that inclusion, unless the practitioner can prove that they are not the person referred to in the information provided; and
      - (b) a document from the Board, authenticated in whatever way the General Council may approve, that provides a statement of the findings of fact made by the Board that led to that inclusion shall be conclusive evidence of the facts found proved by the Board.
    - (5B) Where it is alleged that the Scottish Ministers have included a practitioner in the children’s list or the adults’ list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007)—
      - (a) information provided by the Scottish Ministers under the Protection of Vulnerable Groups (Scotland) Act 2007 that attests to that inclusion shall be conclusive evidence of that inclusion, unless the practitioner can prove that they are not the person referred to in the information provided; and

- (b) a document from the Scottish Ministers, authenticated in whatever way the General Council may approve, that provides a statement of the findings of fact made by the Scottish Ministers that led to that inclusion shall be conclusive evidence of the facts found proved by the Scottish Ministers.”

#### **Amendment of the General Optical Council (Fitness to Practise) Rules 2005**

**24.** After rule 38 of the General Optical Council (Fitness to Practise) Rules 2005(6), insert the following rule—

##### **“Evidence relating to barring entries**

**38A.**—(1) Where it is alleged that a registrant has been included in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007) by the Independent Barring Board—

- (a) information provided by the Secretary of State under the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 that attests to that inclusion shall be conclusive evidence of that inclusion, unless the registrant can prove that they are not the person referred to in the information provided; and
- (b) a document from the Board, authenticated in whatever way the Council may approve, that provides a statement of the findings of fact made by the Board that led to that inclusion shall be conclusive evidence of the facts found proved by the Board.

(2) Where it is alleged that the Scottish Ministers have included a registrant in the children’s list or the adults’ list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007)—

- (a) information provided by the Scottish Ministers under the Protection of Vulnerable Groups (Scotland) Act 2007 that attests to that inclusion shall be conclusive evidence of that inclusion, unless the registrant can prove that they are not the person referred to in the information provided; and
- (b) a document from the Scottish Ministers, authenticated in whatever way the Council may approve, that provides a statement of the findings of fact made by the Scottish Ministers that led to that inclusion shall be conclusive evidence of the facts found proved by the Scottish Ministers.”

#### **Amendment of the General Dental Council (Fitness to Practise) Rules 2006**

**25.** In rule 57 of the General Dental Council (Fitness to Practise) Rules 2006(7) (evidence)—

- (a) in paragraph (4), before “It shall be” insert “Except as otherwise provided by this rule,”; and
- (b) after paragraph (6) insert the following paragraphs—

“(6A) Where it is alleged that a respondent has been included in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007) by the Independent Barring Board—

- (a) information provided by the Secretary of State under the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern

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(6) Scheduled to [S.I. 2005/1475](#).

(7) Scheduled to [S.I. 2006/1663](#).

Ireland) Order 2007 that attests to that inclusion shall be conclusive proof of that inclusion, unless the respondent can prove that they are not the person referred to in the information provided; and

- (b) a document from the Board, authenticated in whatever way the Council may approve, that provides a statement of the findings of fact made by the Board that led to that inclusion shall be conclusive proof of the facts found proved by the Board.

(6B) Where it is alleged that the Scottish Ministers have included a respondent in the children’s list or the adults’ list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007)—

- (a) information provided by the Scottish Ministers under the Protection of Vulnerable Groups (Scotland) Act 2007 that attests to that inclusion shall be conclusive proof of that inclusion, unless the respondent can prove that they are not the person referred to in the information provided; and
- (b) a document from the Scottish Ministers, authenticated in whatever way the Council may approve, that provides a statement of the findings of fact made by the Scottish Ministers that led to that inclusion shall be conclusive proof of the facts found proved by the Scottish Ministers.”

#### **Amendment of the Royal Pharmaceutical Society of Great Britain (Registration) Rules 2007**

**26.** In the Royal Pharmaceutical Society of Great Britain (Registration) Rules 2007<sup>(8)</sup>, in rule 6 (application for registration in the register of pharmacists) in paragraph (3)(g) (in both places) for “48(1)(e) to (k)” substitute “48(1)(e) to (m)”.

#### **Amendment of the Royal Pharmaceutical Society of Great Britain (Fitness to Practise and Disqualification etc.) Rules 2007**

**27.** In the Royal Pharmaceutical Society of Great Britain (Fitness to Practise and Disqualification etc.) Rules 2007<sup>(9)</sup>, in rule 30 (evidence), after paragraph (5) insert the following paragraphs—

“(5A) Where it is alleged that an applicant or registrant has been included in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007) by the Independent Barring Board—

- (a) information provided by the Secretary of State under the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007 that attests to that inclusion shall be conclusive proof of that inclusion, unless the applicant or registrant concerned can prove that they are not the person referred to in the information provided; and
- (b) a document from the Board, authenticated in whatever way the Society may approve, that provides a statement of the findings of fact made by the Board that led to that inclusion shall be conclusive proof of the facts found proved by the Board.

(5B) Where it is alleged that the Scottish Ministers have included an applicant or registrant in the children’s list or the adults’ list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007)—

- (a) information provided by the Scottish Ministers under the Protection of Vulnerable Groups (Scotland) Act 2007 that attests to that inclusion shall be conclusive proof

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<sup>(8)</sup> Scheduled to [S.I. 2007/441](#).

<sup>(9)</sup> Scheduled to [S.I. 2007/442](#).

of that inclusion, unless the applicant or registrant concerned can prove that they are not the person referred to in the information provided; and

- (b) a document from the Scottish Ministers, authenticated in whatever way the Society may approve, that provides a statement of the findings of fact made by the Scottish Ministers that led to that inclusion shall be conclusive proof of the facts found proved by the Scottish Ministers.”