

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 the Scottish Parliament.

DRAFT STATUTORY INSTRUMENTS

2015 No.

HEALTH CARE AND ASSOCIATED PROFESSIONS

**The Health and Care Professions (Public Health Specialists and
Miscellaneous Amendments) Order 2015**

Made - - - - 2015

Coming into force in accordance with article 1(2) and (3)

At the Court at Buckingham Palace, the xx day of xx 2015

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) and (4A) of, and Schedule 3 to, the Health Act 1999^(a).

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, together with a report about the consultation, 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.

(a) 1999 c. 8. Section 60 was amended by paragraph 16 of Schedule 5 to the Nursing and Midwifery Order 2001 (S.I. 2002/253); section 26(9) of the National Health Service Reform and Health Care Professions Act 2002 (c. 17); paragraph 1 of Schedule 8 to the Health and Social Care Act 2008 (c. 14); sections 209, 210 and 213 of, and paragraphs 60 and 72 of, Schedule 15 to the Health and Social Care Act 2012 (c. 7); paragraph 7 of Schedule 4 to the Pharmacy Order 2010 (S.I. 2010/231); paragraph 43 of Schedule 43 of Schedule 34 to the Human Medicines Regulations 2012 (S.I. 2012/1916).. Section 62 was amended by: the National Health Service (Consequential Provisions) Act 2006 (c. 43), Schedule 1, paragraphs 194 and 197, and Schedule 4; and paragraph 2 of Schedule 8 to the Health and Social Care Act 2008. Subsection (4) and (4A) were substituted in section 62 by paragraph 11 of Schedule 10 to the Health and Social Care Act 2008. Schedule 3 was amended by, section 26(10) of the National Health Service Reform and Health Care Professions Act 2002; paragraph 8(b) of Schedule 4 to the Health and Social Work Professions Order 2001 (S.I. 2002/254); paragraph 67 of Schedule 11, and paragraph 1 of Schedule 14 to the Health and Social Care (Community Health and Standards) Act 2003 (c. 43); paragraphs 4 to 9 of Schedule 8, and paragraph 1 of Schedule 15, to the Health and Social Care Act 2008; section 211 of, and paragraphs 61 and 72 of Schedule 15 to, the Health and Social Care Act 2012.

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

Citation, commencement and extent

1.—(1) This Order may be cited as the Health and Care Professions (Public Health Specialists and Miscellaneous Amendments) Order 2015.

(2) This article, articles 2, 3(2) and (3), 4 and 5(3) and (4) come into force on the day after the day on which this Order is made.

(3) Articles 3(1) and 5(1) and (2) come into force on 1st July 2016.

(4) The extent of any amendment of any enactment or instrument contained in this Order is the same as that of the enactment or instrument amended.

Interpretation

2. In this Order—

“the 2001 Order” means the Health and Social Work Professions Order 2001(a);

“HCPC” means the Health and Care Professions Council established under article 3 of the 2001 Order(b);

“HCPC register” means the register established under article 5 of the 2001 Order;

“PHR” means the United Kingdom Public Health Register, a private company limited by guarantee, which was incorporated on 23rd May 2003(c);

“PHR register” means the aggregate of entries in the register maintained by the PHR that relate to persons other than public health practitioners;

“public health practitioner” means a person registered with the PHR but who—

- (a) has not completed a national public health speciality training programme approved by the General Medical Council; or
- (b) has not reached the requisite level of competence as determined by the PHR required by it for registration as a specialist in public health.

Regulation of public health specialists

3.—(1) Part 1 of Schedule 1 to this Order makes amendments to the 2001 Order and other legislation relating to the regulation of the profession of public health specialist by the HCPC.

(2) Part 2 of Schedule 1 to this Order makes further miscellaneous amendments to the 2001 Order.

(3) Schedule 2 to this Order makes amendments to other subordinate legislation.

Transitory and transitional provisions relating to the introduction of the registration of public health specialists by the Health and Care Professions Council

4.—(1) The HCPC and the PHR shall enter into arrangements (which may include financial arrangements) to facilitate the introduction of arrangements for the regulation of public health specialists by the HCPC arising out of this Order.

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- (a) S.I. 2002/25. The title to this statutory instrument was amended by section 213(6) of the Health and Social Care Act 2012 (c. 7).
 - (b) The name of body corporate previously known as the Health Profession Council was amended by section 214 (1)(b) of the Health and Social Care Act 2012 to the Health and Care Profession Council.
 - (c) The United Kingdom Public Health Register (UKPHR) has its registered office at Chadwick Court, 15 Hatfields, London, SE1 8DJ.

(2) The arrangements entered into under paragraph (1) shall include arrangements to ensure that all the names in the PHR register which are to be entered in the HCPC register with effect from the 1st July 2016 are so entered.

(3) If on the 30th June 2016, a person's name is included in the PHR register, that person shall be registered in the part of the HCPC register which relates to public health specialists with effect from the 1st July 2016.

(4) If on the 30th June 2016, there is an outstanding application for a person's name to be entered in the PHR register (including an application for restoration to that register), the HCPC—

- (a) may determine that the person's name is to be entered in the part of the HCPC register which relates to public health specialists; or
- (b) shall dispose of the matter in such other manner as it considers just.

(5) Where a person who is registered in the HCPC register pursuant to paragraph (3) or (4), notifies the HCPC in writing no later than 12th August 2016 that they do not wish to be registered in the HCPC register, the HCPC must—

- (a) remove that person's name from the HCPC register; and
- (b) treat that person as not having been so registered.

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

(7) Paragraph (8) applies if, on 30th June 2016, a person's name is included in the PHR register but—

- (a) the person's registration is suspended; or
- (b) the person is the subject of proceedings which could lead to the person's removal or suspension from the PHR register.

(8) In the circumstances described in paragraph (7), the HCPC—

- (a) may determine that the person's name is not to be entered in the part of the HCPC register which relates to public health specialists; or
- (b) shall dispose of the matter (including any proceedings) in such other manner as it considers just.

Amendments

5.—(1) Part 1 of Schedule 1 (which deals with amendments to the 2001 Order and other legislation relating to the regulation of public health specialists) has effect.

(2) The reference in article 13(1)(b) of the 2001 Order to the coming in force of an order under article 6(1) of the Order in relation to a profession includes a reference to the coming into force in relation to a profession of paragraph 5 of Schedule 1.

(3) Part 2 of Schedule 1 (which deals with further miscellaneous amendments to the 2001 Order) has effect.

(4) Schedule 2 (which deals with amendments to the Health Professions Council (Registration Appeals) Rules Order of Council 2003(a)) has effect.

Name
Clerk of the Privy Council

(a) S.I. 2003/1579.

SCHEDULE 1

Article 3(1) and (2)

Amendments to the Health and Social Work Profession Order 2001 and related matters

PART 1

Amendments relating to the regulation of public health specialists

Amendment of article 13

1. In article 13(a) (transitional provisions relating to admission to the register), in paragraph (1), for sub-paragraph (c) substitute—

“(c) who has never been registered in respect of that profession—

- (i) under the 1960 Act or this Order,
- (ii) in the case of an operating department practitioner, in the AODP register,
- (iii) in the case of a practitioner psychologist, in the BPS register or the AEP register, or
- (iv) in the case of a public health specialist, in the PHR register; and”.

Amendment of article 39

2. After sub-paragraph (1A) of article 39(b) (offences), insert—

“(1B) A person who is listed in paragraph (1C) is to be regarded for the purposes of paragraph (1)(b) as entitled to use the title of “public health specialist”.

(1C) Paragraph (1B) refers to a person who is—

- (a) registered in the Specialist Register kept by the General Medical Council under section 34D of the Medical Act 1983(c) (specialist register);
- (b) included in the specialist list kept by the General Dental Council in accordance with regulations made by the General Dental Council pursuant to section 26(3) and (4) of the Dentists Act 1984(d);
- (c) a registrant in the register maintained by the Nursing and Midwifery Council in accordance with article 5 of the Nursing and Midwifery Order 2001(e), in respect of whom, an entry made in that register pursuant to rule 7(8) (entries indicating qualifications or competence) of the Nurses and Midwives (Parts of and Entries in the Register) Order of Council 2004(f) to indicate that the registrant possesses a qualification in, or is competent to practise in, public health;
- (d) a registrant in the register maintained by the General Pharmaceutical Council in accordance with article 19 of the Pharmacy Order 2010(g), whose entry to that register has been annotated pursuant to rules made under article 27(1)(h) of that Order to denote that a registrant has a specialisation in public health;

(a) Amended by S.I. 2004/2033, 2009/1182, 2010/233 and 2012/1479.

(b) Article 39(2) was amended by 2009/1182. Paragraph 1A of that article was inserted by the Health and Social Care Act 2012, section 215(1) and (12).

(c) 1983 c. 54. Section 34D was inserted by S.I. 2010/234, article 4, Schedule 1, paragraph 10.

(d) 1984 c.24. Section 26 was amended by S.I. 2005/2011, articles 2(1) and 15.

(e) S.I. 2002/253.

(f) S.I. 2004/1765.

(g) S.I. 2010/231.

(h) Rules made under article 27 are contained in the Schedule to the General Pharmaceutical Council (Registration) Rules 2010 S.I. 2010/1617.

- (e) a registrant in the register made out and maintained by the Pharmaceutical Society Of Northern Ireland in accordance with Articles 6 and 9 of the Pharmacy (Northern Ireland) Order 1976^(a) whose entry to that register has been annotated pursuant to regulations made under Article 5(1)(ff) of that Order^(b) to denote that a registrant has a specialisation in public health.
- (f) registered in a part of the register maintained by the Health and Care Professions Council in accordance with article 5 of this Order as member of a relevant profession other than that of a registered public health specialist, in respect of an entry has been made pursuant to rule 6(4) (entries indicating qualifications or competence) of the Health Professions (Parts of and Entries in the Register) Order of Council 2003^(c) to indicate that such a registrant possesses qualification in, or is competent to practise in public health.”.

Amendment of Schedule 1

3. In paragraph 1A of Schedule 1^(d) (the Health and Care Professions Council and Committees: membership)—

- (a) in sub-paragraph (1)(b)(i), for “or the HAC register”, substitute “, the HAC register or the PHR register”; and
- (b) after sub-paragraph (1A), insert—
“(1B) For the purposes of sub-paragraph (1), “the PHR register” means the register maintained by the PHR.”.

Amendment of Schedule 3

4. In Schedule 3^(e) (interpretation), in paragraph 1—

- (a) insert each of the following definitions at the appropriate place in the alphabetical order—
““PHR” means the United Kingdom Public Health Register, a private company limited by guarantee which was incorporated on the 23rd May 2003^(f);
“PHR register” means (except in relation to paragraph 1A(1)(b)(i) of Schedule 1) the aggregate of entries in the register maintained by the PHR that relate to persons other than public health practitioners;
“public health practitioner” means a person registered with the PHR who—
(a) has not completed a national public health speciality training programme approved by the General Medical Council; or
(b) has not reached the requisite level of competence as determined by the PHR required by it for registration as a specialist in public health.”;
- (b) in the definition of “relevant professions”, after “prosthetists and orthotists;”, insert “public health specialists;”

Amendment of the Health and Care Professions (Parts of and Entries in the Register) Order of Council 2003

5. In the Health Care Professions (Parts of and Entries in the Register) Order of Council 2003^(g), in Schedule 1^(h) (parts of the register)—

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- (a) S.I. 1976/1213 (N.I. 22)
 - (b) Sub-paragraph (ff) of Article 5(1) was inserted by S.R. 2004 No. 78.
 - (c) S.I. 2003/1571.
 - (d) Paragraph 1A was amended by S.I. 2009/1182 and 2010/233.
 - (e) Amended by S.I. 2009/1182 and 2010/233.
 - (f) Registered Office is at Chadwick Court, 15 Hatfields, London, SE1 8DJ.
 - (g) S.I.2003/1571; amended by S.I. 2004/2522, 2009/1182 and 2010/233.
 - (h) Amended by S.I. 2004/2522, 2009/1182 and 2010/233.

- (a) in column 1, after the entry “Part 16 -Social Workers” add the following entry: “Part 17 – Public Health Specialist”;
- (b) in column 2, after the entry “Social Worker” and opposite the entry in column 1 added by paragraph (a), add the following entry: “Public Health Specialist”.

Amendment of the European Communities (Recognition of Professional Qualifications) Regulations 2007

6. In the European Communities (Recognition of Professional Qualifications) Regulations 2007(a)—

- (a) in Schedule 1(b) (regulated professions), in Part 1 (professions regulated by law or public authority) in the column headed “profession” after “Prosthetist and Orthotist” insert “Public Health Specialist”; and
- (b) in Schedule 2(c) (regulated professions having public health or safety implications), after “Prosthetist and Orthotist” insert “Public Health Specialist”.

PART 2

Miscellaneous amendments to the Health and Social Work Professions Order 2001

Amendment of article 30

7. In article 30 (review of orders by the Health Committee and the Conduct and Competence Committee)—

- (a) for paragraph (1)(b) substitute—
 - “(b) with effect from the expiry of that order, and subject to article 29(6) and (7), make an order falling within article 29(5);”;
- (b) for paragraph (4)(d) substitute—
 - “(d) subject to article 29(6) and (7), replace the order with one falling within article 29(5): any replacement order falling within article 29(5)(b), (c) or (d) shall have effect for the remainder of the term of the order it replaces;”.

Amendment of article 37

8. In article 37(5)(d) (appeals against decisions of the Education and Training Committee)—

- (a) after sub-paragraph (c)(i) insert “and”;
- (b) after sub-paragraph (c)(ii) omit “and”;
- (c) omit sub-paragraphs (c)(iii) and (d).

SCHEDULE 2

Article 3(3)

Amendments to the Health Professions Council (Registration Appeals) Rules Order of Council 2003

1. The Health Professions Council (Registration Appeals) Rules Order of Council 2003(e) is amended as follows.

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- (a) S.I.2007/2781.
 - (b) Amended by S.I. 2009/1182 and 2010/233.
 - (c) Amended by S.I. 2009/1182.
 - (d) Article 37 was amended by S.I. 2007/3101, regulation 1(2), S.I. 2009/1182, article 3(2).
 - (e) S.I. 2003/1579 as amended by S.I. 2009/1355 and S.I. 2012/1479.

2. For the title to the Order, substitute “The Health and Care Professions Council (Registration Appeals) Rules Order of Council 2003”.

3. In the citation paragraph, for “the Health Professions Council (Registration Appeals) Rules Order of Council 2003” substitute “the Health and Care Professions Council (Registration Appeals) Rules Order of Council 2003”.

4. For the heading to the Schedule to the Order, for “The Health Professions Council (Registration Appeals) Rules 2003” substitute “The Health and Care Professions Council (Registration Appeals) Rules 2003”.

5. In rule 9 (consideration by Appeal Panel)-

- (a) in paragraph (3), omit sub-paragraph (c);
- (b) in paragraph (4)-
 - (i) for “Council” substitute “Panel”, and
 - (ii) for “(b)(i) and (ii)” substitute “(a) and (b)”;
- (c) in paragraph (7), omit “other than the Chair”;
- (d) in paragraph (8), omit “the Council or” (twice).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order designates public health specialists as one of the professions regulated under the Health and Social Work Professions Order 2001(a) (“the principal Order”). A number of amendments have been made to the principal Order and related legislation as a result of this. There are also miscellaneous amendments to the principal Order contained in Part 2 of Schedule 1 to this Order.

Article 2 of this Order, deals with interpretation. Article 3(1) and (2) of, and Schedule 1 to, this Order make amendments to the principal Order.

Article 4 contains transitory and transitional provisions relating to the introduction of the registration of public health specialists by the Health and Care Professions Council (“HCPC”). These provide for arrangements between the United Kingdom Public Health Register (“PHR”), holders of the voluntary register for public health specialists and public health practitioners, and the HCPC, to facilitate the transfer of the PHR’s registrants (other than public health practitioners) to the HCPC register.

The effect of the amendments to the principal Order by this Order is that public health specialists must be registered in the register maintained under article 5 of the principal Order (HCPC register) in order to use the designated title “public health specialist” (see article 6(2) of the principal Order) unless an exception applies. The exceptions are set out in the new article 39(1C)). These are medical practitioners and dentists who are also public health specialists, and are accordingly registered with the General Medical Council (“GMC”) and General Dental Council (“GDC”), respectively. There are also exceptions in relation to registrants with the Nursing and Midwifery Council (“NMC”); the General Pharmaceutical Council (“GPhC”); the Pharmaceutical Society of Northern Ireland and the HCPC provided that the respective registers contain information (annotations) which indicate that these registrants have qualifications in, or competence to practise in the role of a public health specialist.

Article 5(4) and Schedule 2 to this Order make amendments to the Health Professions Council (Registration Appeals) Rules Order of Council 2003 (S.I. 2003/1579).

Part 1 of Schedule 1 contains amendments to the principal Order in respect of the regulation of the profession of public health specialists by the HCPC. Regulation by HCPC does not extend to

(a) S.I.2002/254.

public health practitioners, which includes those who have neither completed an appropriate course of training to qualify, nor acquired sufficient experience to be accredited by PHR, as a public health specialist but are registered on a voluntary basis with the PHR as public health practitioners.

Paragraph 1 of Schedule 1 to this Order, amends article 13(1)(c) (transitional arrangements relating to admission to the register) of the principal Order. Persons who were not on the PHR register will, for a two year period, be able to seek registration with the HCPC on the basis of relevant practice, training and experience, even if their qualifications is not amongst those recognised by the HCPC, subject to their satisfying a test of competence, where appropriate.

Paragraph 2 of Schedule 1 to this Order amends article 39 (offences) of the principal Order to allow those exempted from registration as public health specialist with the HCPC to use the protected title of public health specialist without committing an offence provided that they satisfy the conditions for the exemption to apply.

Paragraph 3 of Schedule to this Order amends Schedule 1 to the principal Order (membership: general) to exclude any registrant with the PHR from becoming a lay member of Council.

Paragraph 4 of Schedule 1 to this Order amends Schedule 3 to the principal Order (interpretation). The definition of “relevant profession” is expanded to include public health specialist. The “PHR register” is defined to exclude public health practitioners who will not be regulated healthcare professionals.

As a consequence of public health specialists becoming a regulated profession, paragraphs 5 and 6 of Schedule 1 make other consequential amendments. Under paragraph 5, a new part is added to the HCPC register for public health specialists. Under paragraph 6, the HCPC is designated as the authority responsible for processing applications for entry into Part 17 of the HCPC register from migrants having similar qualifications recognised in the European Economic Area or Switzerland and for authorising those migrants to practise in the United Kingdom in accordance with Council Directive 2005/36/EC on a second general system for the recognition of professional education and training, as amended and extended.

Part 2 of Schedule 1 amends articles 30 and 37 of the principal Order. Article 30(1) is amended to clarify that the Health Committee or the Conduct and Competence Committee on review of, a suspension order or a conditions of practice order may, subject to articles 29(6) and (7), make any order falling within article 29(5). It also amends paragraph (4) to clarify the position in respect of reviews of such orders which are undertaken on the application of the person concerned or where the Committee, at any time, considers the review is necessary. Article 37 is amended so as to remove the requirement for a Council member to chair the Appeals Panel and to remove the requirement for this Panel to include a registered medical practitioner where the health of a registrant is in issue. Paragraphs 2 to 4 of Schedule 2 make technical amendments to the Health Professions Council (Registration Appeals) Rules Order of Council 2003(a). It amends the name of that Order and its citation following the renaming of the HPC as the HCPC following the commencement, on 1st August 2012, of section 214 of the Health and Social Care Act 2012 (c. 7).

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