

ESTABLISHMENT OF THE GENERAL PHARMACEUTICAL COUNCIL

EXECUTIVE NOTE

THE PHARMACY ORDER 2010 (APPEALS – TRANSITIONAL PROVISIONS) ORDER OF COUNCIL 2010

2010 No. 2150

1. This Order (“the Appeals – Transitional Provisions Order”) makes transitional provisions which will come into effect when the new General Pharmaceutical Council (GPhC) becomes fully operational from 27 September 2010. It will be made in exercise of powers conferred by section 69(3) of the Pharmacy Order 2010. It is subject to annulment in pursuance of a resolution of either House of Parliament or of the Scottish Parliament and is being laid simultaneously before both Parliaments by the Privy Council.

Policy Objectives

2. The White Paper *Trust, Assurance and Safety: the Regulation of Health Professionals in the 21st Century* put forward a programme of reform of the regulation of health care professionals. The main emphasis was to increase accountability of their regulators, while at the same time increasing their independence from Government. One recommendation was the establishment of a new pharmacy regulator, to separate the regulation function from that of professional leadership. Since 1841 both functions had been carried out for pharmacists in England, Scotland and Wales by the Royal Pharmaceutical Society of Great Britain (RPSGB). The Health Act 1999 as amended by the Health and Social Care Act 2008 enabled the making of the Pharmacy Order 2010, which established the new GPhC as the regulator for pharmacists and pharmacy technicians across Great Britain. A professional leadership body for pharmacists, to work alongside the regulator, will be formed from the RPSGB’s leadership arm.

4. The Appeals - Transitional Provisions Order supplements the transitional provisions in paragraphs 5 and 12 of Schedule 5 to the Pharmacy Order 2010. It preserves the right to appeal against certain decisions of the RPSGB or any of its committees made before the day that responsibility transfers to the GPhC, 27 September 2010. It also sets out, for transitional purposes, those procedures relating to conduct and continuation of proceedings by the GPhC that are either pending before, or have begun to be heard by, the RPSGB or any of its committees, immediately before 27 September 2010, or which are commenced against the GPhC by virtue of provision in the Appeals - Transitional Provisions Order.

5. While the provisions in the Pharmacy Order 2010 relating to the regulation of pharmacists and registered pharmacies by the GPhC are reserved to Westminster, those relating to the regulation in Scotland of pharmacy technicians fall within the legislative competence of the Scottish Parliament (see paragraph 6). Given that the Pharmacy Order 2010 sets up an entirely new regulator for pharmacy, it was considered that the Orders made under it should receive the additional scrutiny conferred by making them subject to annulment by either House of Parliament or the Scottish Parliament.

6. The Health Care and Associated Professions (Miscellaneous Amendments and

Practitioner Psychologists) Order 2009 made provision for the extension of statutory regulation of pharmacy technicians to Scotland, thereby introducing the devolved component to the Pharmacy Order 2010. Provisions for a statutory register of pharmacy technicians in England and Wales were included in the Pharmacists and Pharmacy Technicians Order 2007, but were not commenced until 2009, when the respective provisions were commenced simultaneously for pharmacy technicians across Great Britain. There had been a longstanding policy objective to regulate pharmacy technicians across Great Britain (Northern Ireland has its own pharmacy regulator).

7. The overall policy objectives, and the specific areas in which these Orders detail procedures, are set out in the attached DH Explanatory Memorandum, in paragraph 7, headed "Policy background".

Consultation

8. There is no requirement to consult in relation to an order under article 69(3) of the Pharmacy Order 2010.

Guidance

9. Neither the Department of Health nor the Scottish Government has issued guidance in relation to this Order. However, it is expected that the GPhC will be providing guidance for registrants.

Impact Assessment and Financial Implications

10. Paragraphs 10 and 11 of the attached DH Explanatory Memorandum, and the Impact Assessment prepared for the consultation on the Pharmacy Order 2010, relate to the impact and financial implications. An Impact Assessment was prepared by the GPhC for the Appeals Committee Rules. It is available as part of the Explanatory Memorandum at: <http://www.opsi.gov.uk/si/si201002>.

Monitoring and Review

11. This legislation, as part of the Professional Standards Programme, will be subject to review by the Scottish Government and the Department of Health in 2011.

Scottish Government Health Directorates
August 2010