

**ESTABLISHMENT OF THE GENERAL PHARMACEUTICAL COUNCIL –
GENERAL PHARMACEUTICAL COUNCIL (CONSTITUTION) ORDER 2010 AND
THE PHARMACY ORDER 2010 (COMMENCEMENT NO. 1) ORDER OF
COUNCIL 2010**

EXECUTIVE NOTE TO

THE GENERAL PHARMACEUTICAL COUNCIL (CONSTITUTION) ORDER 2010

2010 No. 300

AND

**THE PHARMACY ORDER 2010 (COMMENCEMENT ORDER NO. 1) ORDER OF
COUNCIL 2010**

2010 No. 299 C. 24

1. The General Pharmaceutical Council (Constitution) Order 2010 (“the Constitution Order”) is an order of the Privy Council in exercise of powers conferred by article 4(2) of, and paragraph 2 of Schedule 1 to, the Pharmacy Order 2010. The Constitution Order makes provision for the constitution of the General Pharmaceutical Council (the GPhC), the new regulator for pharmacists, pharmacy technicians and registered pharmacies. It is subject to annulment in pursuance of a resolution of either House of Parliament or of the Scottish Parliament. The instrument is therefore subject to negative resolution procedure and laid simultaneously before both Parliaments.

2. The Pharmacy Order 2010 (Commencement Order No.1) Order of Council 2010 (“The Commencement Order”) is an order of the Privy Council that brings into force the amendment of Schedule 6 to the Health Act 2006 which is contained in paragraph 12(b) of Schedule 4 to the Pharmacy Order 2010. This amendment enables the Appointments Commission to exercise the Privy Council’s functions under paragraph 1(2) of Schedule 1 to the Pharmacy Order 2010 to appoint members of the GPhC. The Commencement Order is subject to annulment in pursuance of a resolution of either House of Parliament or of the Scottish Parliament. The instrument is therefore subject to negative resolution procedure and laid simultaneously before both Parliaments.

3. Some of the provisions in the Pharmacy Order 2010 relate to the regulation of pharmacy technicians, for whom regulation is not reserved in terms of the Scotland Act 1998. These provisions are therefore within the legislative competence of the Scottish Parliament and section 62(10) of the 1999 Act required that a draft of the Pharmacy Order 2010 was laid before, and approved by resolution of, each House of Parliament and the Scottish Parliament.

4. The White Paper - *Trust, Assurance and Safety: the Regulation of Health Professionals in the 21st Century* (the White Paper) put forward a programme of reform to the regulation of the health care professions. The main emphasis of the reforms was to increase accountability of the health professions’ regulators while at the same time increasing their independence from Government. One specific recommendation in the White Paper was the establishment of a new regulator for pharmacy to separate this function from that of

professional leadership. Both functions are currently carried out by the Royal Pharmaceutical Society of Great Britain (RPSGB).

5. The GPhC, established by the Pharmacy Order 2010, replaces the RPSGB in terms of its regulatory functions. From 1841, the RPSGB was the professional and regulatory body responsible for pharmacists in England, Scotland and Wales. It is envisaged that a professional leadership body for pharmacists, which will work alongside the regulator, will be formed from the RPSGB's leadership arm.

Policy Objectives

6. 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 3). Given that the Pharmacy Order 2010 sets up an entirely new regulator for pharmacy, it was considered that the related GPhC Constitution Order and any Commencement Order for the Pharmacy Order should receive the additional scrutiny conferred by making it subject to annulment by either House of Parliament or the Scottish Parliament.

7. 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).

8. The overall policy objectives are set out in the attached DH Explanatory Memorandum, in paragraph 7, headed "Policy background".

Consultation

9. A consultation on the Constitution Order was carried out with a wide range of stakeholders. Paragraph 8 of the DH Explanatory Memorandum attached refers to the outcome of the consultation, the report of which is laid with the Order. The consultation was carried out by DH on behalf of the Scottish Ministers as well as on behalf of the Secretary of State for Health (as required by paragraph 9 of Schedule 3 to the Health Act 1999.)

10. Scottish Ministers agreed to a shortened consultation period of 4 weeks because of the similarity of the proposed constitutional arrangements for the GPhC to those of other health care regulators, the recent consultation on the draft Pharmacy Order 2010 which included some of the main features of the GPhC's constitution arrangements, and the planned opening of the GPhC in spring 2010.

11. Although there have been no changes made to the Constitution Order as a direct result of the consultation exercise, article 5 of the Order has been revised to include a new ground for disqualification for appointment as a member of the Council. This is a technical change

which has become necessary because of the commencement of changes made to the law on insolvency introduced by the Tribunals, Courts and Enforcement Act 2007.

Regulatory Impact Assessment and Financial Implications

12. Paragraphs 10 and 11 of the attached DH Explanatory Memorandum, and the attached Impact Assessment prepared for the consultation on the Pharmacy Order 2010, relate to the impact and financial implications of these Orders.

Monitoring and Review

13. The legislation will be subject to review by the Scottish Government and the Department of Health in 2011.

Scottish Government Health Directorates
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