
EXPLANATORY NOTE

(This note is not part of the Order)

^{M1}This Order makes amendments to the framework legislation for the regulation of doctors, dentists and dental care practitioners, optometrists and dispensing opticians, osteopaths, chiropractors, pharmacists and pharmacy technicians, nurses and midwives, and the professions regulated by the Health and Care Professions Council. It makes amendments for doctors, dentists and dental care practitioners, optometrists and dispensing opticians, osteopaths, chiropractors and pharmacists and pharmacy technicians in relation to indemnity arrangements and professional liability insurance and introduces similar arrangements in legislation for nurses and midwives, and professions regulated by the Health and Care Professions Council. The amendments in this Order implement the main recommendations made by the Finlay Scott review which include the requirement for practising regulated healthcare professionals to have insurance or indemnity as a condition of registration (or in the case of a medical practitioner, a condition of obtaining a licence to practise). The Order also implements Article 4(2)(d) of Directive 2011/24/EC (“the Directive”) on the application of patients' rights in cross-border healthcare. Article 4(2)(d) of the Directive requires Member States to have in place systems of professional liability cover or similar in respect of cross-border healthcare for patients receiving treatment in the Member State in question.

Schedule 1 contains amendments to the legislation regulating health care and associated professions. Part 1 amends the Medical Act 1983 by substituting a new section 44C (indemnity arrangements) which requires medical practitioners to have appropriate cover under an indemnity arrangement in respect of liabilities which may be incurred in carrying out work as a medical practitioner. The amendment also makes it clear that a medical practitioner cannot carry out work as medical practitioner unless there is an indemnity arrangement in force in relation to that medical practitioner. The amendments also introduce enabling powers for the General Council to make regulations requiring a medical practitioner to inform the Registrar if their cover provided under an indemnity arrangement ceases to be in force, and to inform the Registrar if appropriate cover under an indemnity arrangement is provided by an employer. Failure to comply with the provisions can be dealt with as a ground on which a licence to practise may be withdrawn by the Registrar, or under section 35C(2) and (4) as fitness to practise matter. Consequential amendments are also made to section 29F (appeals). The provisions do not apply to visiting medical practitioners from relevant European States who are entitled to be registered under Schedule 2A and are entitled to provide medical services on a temporary and occasional basis in the United Kingdom.

Part 2 makes similar changes to sections 26A and 36L of the Dentists Act 1984 in relation to indemnity arrangements for dentists and dental care practitioners, respectively. In addition, section 18 (registration) is also amended so that it contains a requirement for a dentist to provide documents which satisfy the Registrar that there is, or will be appropriate cover under an indemnity arrangement. Section 28 (restoration of names to the register following erasure under section 27B) and section 36R (restoration of names to the dental care professionals register following erasure under section 36P) also require that the dentist and dental care practitioner, satisfy the Registrar that they meet the requirements under sections 26A and 36L, respectively. The provisions do not apply to visiting dentists from relevant European States who are entitled to be registered under section 36 and Schedule 4; and visiting dental care professionals from relevant European States who are entitled to be registered under section 36Z3, and in both cases to provide their services on a temporary and occasional basis in the United Kingdom.

Parts 3 makes similar amendments to section 10A (indemnity arrangements for individual registrants and persons applying for their name to be registered) of the Opticians Act 1989 in

Changes to legislation: *There are currently no known outstanding effects for the The Health Care and Associated Professions (Indemnity Arrangements) Order 2014. (See end of Document for details)*

relation to indemnity arrangements for optometrists and opticians. It also makes consequential amendments to the General Optical (Registration Rules) Order of Council 2005. The provisions do not apply to visiting opticians from relevant European States who are entitled to be registered under section 8B and to provide optical services on a temporary and occasional basis in the United Kingdom.

Parts 4 and 5 make similar amendments to section 37 in both the Osteopaths Act 1993 and Chiropractors Act 1994 in relation to indemnity arrangements for osteopaths and chiropractors, respectively. In particular, it substitutes the requirement to have professional liability insurance, with a requirement to have an indemnity arrangement. There is also a power for the General Council in relation to osteopaths and chiropractors, to make rules in connection with the types of indemnity arrangement required. In both cases, the provisions do not apply to visiting practitioners who are entitled to be registered with temporary registration and provide their services on a temporary and occasional basis in the United Kingdom.

Part 6 amends the Health and Social Work Professions Order 2001, so that it contains new requirements in article 11A, for professions regulated by the Health and Care Professions Council (other than social workers in England) to have an indemnity arrangement in respect of liabilities which may be incurred in carrying out work as a member of a profession regulated by the Health and Care Professions Council. It also makes consequential amendments to the Health Professions Council (Registration and Fees) Rules Order of Council 2003. The provisions do not apply to visiting health professionals from relevant European States who are entitled to be registered under article 13A and to provide services on a temporary and occasional basis in the United Kingdom.

Part 7 amends the Nursing and Midwifery Order 2001, so that it contains new requirements in article 12A for nurses and midwives to have an indemnity arrangement in respect of liabilities which may be incurred in carrying out work as a nurse or midwife. It also makes consequential amendments to the Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules Order of Council 2004. The provisions do not apply to visiting midwives, and certain nurses relevant European States who are entitled to be registered under article 39 and Schedule 2A; or visiting general system nurses from relevant European States who are entitled to register under article 39A, where their services are provided on a temporary and occasional basis in the United Kingdom.

Part 8 amends the Pharmacy Order 2010, so that it contains enabling powers for the Council to make rules requiring a pharmacists and pharmacy technicians to inform the Registrar if their cover provided under an indemnity arrangement ceases to be in force, and to inform the Registrar if appropriate cover under an indemnity arrangement is provided by an employer. It also makes consequential amendments to the General Pharmaceutical Council (Registration Rules) Order of Council 2010. The provisions do not apply to visiting pharmacists from relevant European States who are entitled to be registered under Schedule 2 and to provide their services on a temporary and occasional basis in the United Kingdom.

Schedule 2 contains consequential amendments made in respect of other subordinate legislation.

Schedule 3 makes transitional arrangements and savings in relation to medical practitioners, opticians, osteopaths, chiropractors and pharmacists to allow in certain circumstances, a policy of insurance or indemnity arrangement to remain in force during the transitional period.

Changes to legislation:

There are currently no known outstanding effects for the The Health Care and Associated Professions (Indemnity Arrangements) Order 2014.