

*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.*

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DRAFT STATUTORY INSTRUMENTS

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**2015 No.**

**HEALTH CARE AND ASSOCIATED PROFESIONS**

**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 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.

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

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(a) 1999 c. 8. Section 60 has been amended by: the National Health Service Reform and Health Care Professions Act 2002 (c. 17) ("the 2002 Act"), section 26(9); the Health and Social Care Act 2008 (c. 14) ("the 2008 Act"), Schedule 8, paragraph 1, and Schedule 10, paragraph 10; sections 209 and 210 of the Health and Social Care Act 2012 (c. 7) ("the 2012 Act"); and S.I. 2002/253 and 254. Section 62 has been amended by: the National Health Service (Consequential Provisions) Act 2006 (c. 43), Schedule 1, paragraphs 194 and 197, and Schedule 4; and the 2008 Act, Schedule 8, paragraph 2, and Schedule 10, paragraph 11. Schedule 3 has been amended by: the 2002 Act, section 26(10); the Health and Social Care (Community Health and Standards) Act 2003 (c. 43), Schedule 11, paragraph 67, and Schedule 14, Part 4; the Health Act 2006 (c. 28), section 33 and Schedule 9; the 2008 Act, Schedule 8, paragraphs 3 to 10 (although paragraph 10 is not yet in force); the 2012 Act, section 211 and S.I. 2002/254.

## 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 and articles [insert] come into force on the day after the day on which this Order is made.

(3) Articles [insert] to [insert] come into force on [insert].

(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);

“dual registrant” means a person who is—

(a) registered with the PHR; and

(b) where that person is —

(i) a medical practitioner recognised as having a specialty in public health medicine, that person is also registered in the specialist register maintained by the General Medical Council pursuant to section 34D(b) (specialist registers) of the Medical Act 1983(c); or

(ii) a dentist recognised as having a specialty in dental public health, that person is also included in the specialist list maintained by the General Dental Council in accordance with regulations made by the General dental Council pursuant to section 26(3) and (4)(d) of the Dentists Act 1984(e);

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

“HCPC register” means the register maintained 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 23 May 2003(g);

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

“public health practitioner” means a person who—

(a) is not registered in any register as a public health specialist;

(b) has not completed a national public health speciality training programme approved by the General Medical Council;

(c) has not reached the requisite level of competence for such registration as determined by the PHR.

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(a) S.I. 2002/254. The title to this statutory instrument was amended by section 213(6) of the Health and Social Care Act 2012 (c. 7).

(b) Inserted by S.I. 2010/234.

(c) 1983 c. 54.

(d) Section 26 has been amended by S.I. 2005/2011.

(e) 1984 c. 24.

(f) 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.

(g) The United Kingdom Public Health Register (UKPHR) has its registered office at Chadwick Court, 15 Hatfields, London, SE1 8DJ.

### **Regulation of public health specialists**

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

(2) Part 2 of the 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.

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

(3) If on [insert date], a person's name is included in the PHR register, the person shall be registered in the part of the HCPC register which relates to public health specialists with effect from the appointed day.

(4) If on [insert date], 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; and

(b) shall dispose of the matter in such manner as it considers just.

(5) Where a person who is registered in the HCPC register pursuant to paragraph (3), notifies the HCPC in writing no later than [insert] 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 [insert], a person's name is included in the PHR register but—

(a) the person's registration is suspended (whether temporarily or permanently); 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; and

(b) shall dispose of the matter (including any proceedings) in such manner as it considers just.

(9) In this article "the appointed day" means the day on which this Order comes into force.

### **Transitional, transitory and saving provisions**

5.—(1) In connection with the commencement of any provision of this Order, the Privy Council may by order make such transitional, transitory or saving provisions as it considers appropriate.

(2) The power to make an order under paragraph (1) may be exercised—

(a) so as to make different provision—

(i) with respect to different cases or different classes of cases, or

- (ii) in respect of the same case or class of case for different purposes;
- (b) in relation to all cases to which the power extends or in relation to all those cases subject to specified exemptions; or
- (c) so as to make any supplementary, incidental or consequential provision which the Privy Council considers necessary or expedient.

**Privy Council procedure etc.**

6.—(1) The power of the Privy Council to make an order under article 5(1) may be exercised by any two or more members of the Privy Council.

(2) The making of an order under article 5(1) shall be sufficiently signified by an instrument signed by the Clerk of the Privy Council.

(3) The power to make an order under article 5(1) shall be exercisable by statutory instrument.

(4) For the purposes of section 1 of the Statutory Instruments Act 1946 (definition of “Statutory Instrument”), the power in article 5(1) is to be taken to be conferred by an Act of Parliament.

(5) Where an order of the Privy Council under this Order is signified by an instrument purporting to be signed by the Clerk of the Privy Council, that shall be evidence, and in Scotland sufficient evidence, of—

- (a) the fact that the order was duly made; and
- (b) the order’s terms.

**Further Miscellaneous Amendments**

7. 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

**SCHEDULE 1**

Article 3

**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(b) (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,

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(a) S.I. 2003/1579.  
(b) Amended by S.I. 2004/2033, 2009/1182 and 2010/233.

- (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(a) (offences), insert—

“(1B) A person who is registered in, the Specialist Register kept by the General Medical Council under section 34D(b) of the Medical Act 1983(c) (specialist register) or included in the specialists 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), is to be regarded for the purposes of paragraph (1)(b) as entitled to use the title of “public health specialist.”.

### **Amendment of Schedule 1**

3. In paragraph 1A of Schedule 1(e) (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(f) (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 23 May 2003(g);
  - “PHR register” means (except in relation to paragraph 1A(1) 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 who—
    - (a) is not a public health specialist;
    - (b) has not completed a national public health speciality training programme approved by the General Medical Council; or
    - (c) has not reached the requisite level of competence for such registration as determined by the PHR.”;
- (b) in the definition of “relevant professions”, after “prosthetists;”, insert “public health specialists;” and
- (c) after paragraph 1A, insert—

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(a) Amended by 2009/1182.

(b) Inserted by S.I. 2010/234.

(c) 1983 c. 54.

(d) 1984 c. 24. The regulations made by the General Dental Council are the General Dental Council (Specialist List) Regulations 2008.

(e) Amended by S.I. 2009/1182 and 2010/233.

(f) Amended by S.I. 2009/1182 and 2010/233.

(g) Registered Office is at [ ].

**1B.** Subject to paragraph 1A of Schedule 1, this Order does not apply to a person who is registered in the PHR register as a public health practitioner.

**1C.** Subject to article 39(1B), this Order does not apply where a person is entered in—

- (a) the specialist register maintained by the General Medical Council pursuant to section 34D(a) (specialist registers) of the Medical Act 1983(b) as having a specialty in public health medicine unless that person is also registered with the HCPC in that part of the register which relates to public health specialists; or
- (b) the specialist list maintained by the General Dental Council in accordance with regulations made pursuant to section 26(3) and (4)(c) of the Dentists Act 1984(d) as having a specialty in dental public health unless that person is also registered with the HCPC in that part of the register which relates to 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(e), in Schedule 1(f) (parts of the register)—

- (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(g)—

- (a) in Schedule 1(h) (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(i) (regulated professions having public health or safety implications), after “Prosthetist and Orthotist” insert “Public Health Specialist”.

## **PART 2**

### **Miscellaneous amendments**

#### **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—

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(a) Inserted by S.I. 2010/234.  
(b) 1983 c.54.  
(c) Section 26 has been amended by S.I. 2005/2011.  
(d) 1984 c. 24.  
(e) S.I.2003/1571; amended by S.I. 2004/2522, 2009/1182 and 2010/233.  
(f) Amended by S.I. 2004/2522, 2009/1182 and 2010/233.  
(g) S.I.2007/2781.  
(h) Amended by S.I. 2009/1182 and 2010/233.  
(i) Amended by S.I. 2009/1182.

- “(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 order it replaces;”.

### **Amendment of article 37**

- 8.** In article 37(5)(a) (appeals against decisions of the Education and Training Committee)—
- (a) after sub-paragraph (c)(i) insert “and”;
- (b) after sub-paragraph(c)(ii)(c) omit “and”;
- (c) omit sub- paragraphs (5)(c)(iii) and (d).

## **SCHEDULE 2**

Article 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**(b)** is amended as follows.

**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(c) (“the principal Order”). A number of

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(a) Article 37 was amended by S.I. 2007/3101, regulation 1(2), S.I. 2009/1182, article 3(2).  
 (b) S.I. 2003/1579 as amended by S.I. 2009/1355 and S.I. 2012/1479.  
 (c) S.I.2002/254.

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 the Schedule to this Order.

Article 2 deals with interpretation. Article 3 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 and public health specialists with a medical and dental background) to the HCPC register.

Public health specialists from a non medical/dental background 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” (article 6(2) of the principal Order). The only exception is set out in the new article 39(1B) which applies to public health specialists who are also medical practitioners and dentists and are accordingly registered with the General Medical Council (“GMC”) and General Dental Council (“GDC”), respectively. They can use the title public health specialist without having to be registered with the HCPC.

Article 5 allows for the making of transitional provisions and article 6 sets out the procedures for making orders of the Privy Council under the provisions of this Order.

Article 7 and Schedule 2 to this Order make amendments to the Health Professions Council (Registration Appeals) Rules Order of Council 2003.

Part 1 of Schedule 1 contains amendments to the principal Order in respect of the regulation the profession of public health specialists by the HCPC. Regulation by the HCPC does not extend to public health specialists who are registered with the GMC in the Specialist register which it maintains under section 34D(a) of the Medical Act 1983(b) for public healthy medicine; or the GDC in its Specialist list for dental public health unless such persons also choose to be registered with the HCPC in that part of the register which relates to public health specialists. Public health practitioners, who have neither completed an appropriate course of training to qualify, nor acquired sufficient experience to be accredited, as a public health specialist are not regulated by the HCPC (paragraph 4(c) of the Schedule to this Order).

In paragraph 1 of Schedule 1, article 13(1)(c) (transitional arrangements relating admission to the register) is amended to allow a person who has never been registered with the PHR to apply for admission to the HCPC register within a period of two years of the date of this Order coming into force, provided that the Education Committee is satisfied that the person has acquired relevant practice, training and experience to be registered in the HCPC register (“grand-parenting” provision).

In paragraph 2 of Schedule 1, article 39 (offences) is amended to allow medical practitioners who are registered with the GMC in their specialist register as having a speciality in public health medicine; or dentists who are included in the GDC’s specialist list as having a specialty in dental public health, to use the protected title of public health specialist without committing an offence even though they have opted to be registered with the HCPC.

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

Paragraph 4 of Schedule 1 amends Schedule 3 to the principal Order (interpretation). The definition of “relevant profession” is expanded to include public health specialist. The “PHR register” is

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(a) Inserted by S.I. 2010/234.

(b) 1983 c.54.

defined to exclude public health practitioners who will not be a regulated healthcare professional except in relation to paragraph 1A of Schedule 1 of the principal Order.

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 article 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. Schedule 2 amends article 37 of that Order to remove the requirement for a Council member to chair the Registration Appeals Panel (see paragraph 5). Paragraphs 2 to 4 make technical amendments to 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).