

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

2013 No.

HEALTH CARE AND ASSOCIATED PROFESSIONS

Health Care and Associated Professions (Indemnity Arrangements) Order 2013

Made - - - - *2013*

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

At the Court at Buckingham Palace, the xx day xx of xx 2013

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 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 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.

(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 and commencement

1.—(1) This Order may be cited as the Health Care and Associated Professions (Indemnity Arrangements) Order 2013.

(2) This article comes into force on the day after the day on which this Order is made.

(3) Article 2 and article 3 come into force on [date].

(4) Where this Order amends other legislation and makes transitional provisions in relation to those amendments, those amendments and transitional provisions have the same extent as the legislation being amended.

Amendments

2.—(1) Schedule 1 (amendments to legislation regulating health care and associated professions) has effect.

(2) Schedule 2 (other amendments of subordinate legislation) has effect.

Transitional, transitory or savings provisions

3.—(1) The transitional and saving provisions set out in Schedule 3 have effect.

(2) 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.

(3) The power to make an order under paragraph (2) 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 exceptions; or

(c) so as to make any supplementary, incidental or consequential provisions which the Privy Council considers necessary or expedient.

(4) The power of the Privy Council to make an order under paragraph (2) may be exercised by any two or more members of the Privy Council.

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

(6) The power to make an order under paragraph (2) shall be exercisable by statutory instrument.

(7) For the purposes of section 1 of the Statutory Instruments Act 1946 (definition of “Statutory Instrument”), the power in paragraph (2) is to be taken to be conferred by an Act of Parliament.

(8) Where an order of the Privy Council under this Order is signified by an instrument purporting to be signed by the Clerk to 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.

Date

Name
Clerk of the Privy Council

Amendments relating to indemnity arrangements

PART 1

Amendments to the Medical Act 1983

1.—(1) For section 44C(a) of the Medical Act 1983(b) (indemnity arrangements) substitute—

“44C Indemnity arrangements

(1) A person who holds a licence to practise as a medical practitioner, and practises as such, must have in force in relation to him an indemnity arrangement which provides appropriate cover for practising as such.

(2) For the purposes of this section, an “indemnity arrangement” may comprise—

- (a) a policy of insurance;
- (b) an arrangement for the purposes of indemnifying a person;
- (c) a combination of the two.

(3) For the purposes of this section, “appropriate cover”, in relation to practice as a medical practitioner, means cover against liabilities that may be incurred in practising as such which is appropriate, having regard to the nature and extent of the risks of practising as such.

(4) The General Council may make regulations in connection with the information to be provided to the Registrar—

- (a) by or in respect of a person seeking a licence to practise for the purpose of determining whether, if he is granted such a licence, there will be in force in relation to him by the time he begins to practise an indemnity arrangement which provides appropriate cover; and
- (b) by or in respect of a registered medical practitioner for the purpose of determining whether there is in force in relation to him an indemnity arrangement which provides appropriate cover.

(5) Regulations made under subsection (4)(b) may require the information mentioned there to be provided—

- (a) at the request of the Registrar; or
- (b) on such dates or at such intervals as the Registrar may determine, either generally or in relation to individual practitioners or practitioners of a particular description.

(6) The General Council may also make regulations requiring a registered medical practitioner to inform the Registrar if there ceases to be in force in relation to him an indemnity arrangement which provides appropriate cover.

(7) The General Council may also make regulations requiring a registered medical practitioner to inform the Registrar if there is in force in relation to him appropriate cover provided under an indemnity arrangement by an employer.

(8) A licensing authority may refuse to grant a licence to practise to any person who fails to comply, or in respect of whom there is a failure to comply, with regulations made under subsection (4)(a).

(9) Where a registered medical practitioner is in breach of subsection (1) or there is a failure to comply with regulations made under subsection (4)(b), in relation to him—

(a) Section 44C was inserted by 2006/1914.

(b) 1983 c. 54.

(a) a licensing authority may withdraw that registered medical practitioner's licence to practise; or

(b) the breach or failure may be treated as misconduct for the purposes of section 35C(2), and the Registrar may refer the matter to the Investigation Committee for investigation by them under section 35C(4).

(10) Regulations made under subsections (4), (6) or (7) shall not have effect until approved by the Privy Council.

(11) This section does not apply to a person who holds a licence to practise as a result of registration under Schedule 2A (visiting medical practitioners from relevant European States).”.

(2) In section 29F(1A)(a) (appeals), in paragraph (a), for “section 44C(7)” substitute “section 44C(8)” and in paragraph (b), for “section 44C(8)(a)” substitute “section 44C(9)(a)”.

PART 2

Amendments to the Dentists Act 1984

2. The Dentists Act 1984(b) is amended in accordance with this Part.

Amendment of section 18

3. In subsection (2) of section 18(c) (procedure for registration), after paragraph (b), insert—

“(ba) the documents conferring, or evidencing that there is in force in relation to him, or there will be as necessary for the purpose of complying with section 26A, appropriate cover under an indemnity arrangement.”.

Amendment of section 26A

4. For section 26A(d)(insurance for dental practitioners), substitute—

“26A Indemnity arrangements

(1) A registered dentist who is practising as a dental practitioner must have in force in relation to him an indemnity arrangement which provides appropriate cover for practising as such.

(2) For the purposes of this section, an “indemnity arrangement” may comprise—

(a) a policy of insurance;

(b) an arrangement made for the purposes of indemnifying a person;

(c) a combination of the two.

(3) For the purposes of this section, “appropriate cover”, in relation to practice as a dental practitioner, means cover against liabilities that may be incurred in practising as such which is appropriate, having regard to the nature and extent of the risks of practising as such.

(4) Rules may make provision in connection with the information to be provided to the Registrar—

(a) by or in respect of a person seeking registration in the register for the purpose of determining whether, if his name is entered in the register, there will be in force in

(a) Inserted by S.I. 2006/1914.

(b) 1984 c. 24.

(c) Amended by S.I. 1996/1496; S.I. 2005/2011 and S.I. 2007/3101.

(d) Inserted by S.I. 2005/2011.

relation to him by the time he begins to practise an indemnity arrangement which provides appropriate cover;

- (b) by or in respect of a person seeking restoration of his name in the register for the purpose of determining whether, if his name is restored in the register, there will be in force in relation to him by the time he resumes practice an indemnity arrangement, which provides appropriate cover; and
- (c) by or in respect of a registered dentist seeking retention of his name in the register for the purpose of determining whether, if his name is retained in the register, there will continue to be in force in relation to him an indemnity arrangement which provides appropriate cover.

(5) Rules may make provision requiring a registered dentist to inform the registrar if there ceases to be in force in relation to that dentist an indemnity arrangement which provides appropriate cover.

(6) Rules may make provision requiring a dentist to inform the registrar if there is in force in relation to that dentist appropriate cover provided under an indemnity arrangement by an employer.

(7) Rules made under subsection (4) may require the information mentioned there to be provided—

- (a) at the request of the registrar; or
- (b) on such dates or at such intervals as the registrar may determine, either generally or in relation to individual dental practitioners or dental practitioners of a particular description.

(8) Where a person fails to comply with rules made under subsection (4), or there is a failure to comply with rules made under subsection (4) in relation to him, the registrar may in relation to that person's name—

- (a) refuse to register it in the register;
- (b) refuse to restore it to the register; or
- (c) erase it from the register.

(9) Where a registered dentist is in breach of subsection (1) or fails to comply with rules made under this section—

- (a) the registrar may erase that person's name from the register; or
- (b) the breach or failure may be treated as misconduct for the purposes of section 27, and the registrar may refer the matter to the Investigating Committee for investigation by them under section 27(5)(a).

(10) Where a person's name has been erased from the register under subsection (8)(c), that name shall be restored to the register on that person's application, if he satisfies the registrar that he meets the requirements of—

- (a) section 15(3)(a) to (c);
- (b) this section; and
- (c) any rules made under section 34B which apply to that person's case.

(11) This section does not apply to a person who is registered by virtue of section 36 and Schedule 4 (visiting dentists from relevant European States).”

Amendment of section 36L

5. For section 36L(a) (insurance for members of professions complementary to dentistry), substitute—

(a) Inserted by S.I. 2005/2011.

“36L Indemnity arrangements

(1) A registered dental care professional who practises as a member of a profession complementary to dentistry must have in force, in relation to each title under which he is registered in the dental care professionals register, an indemnity arrangement which provides appropriate cover for practising as such.

(2) For the purposes of this section, an “indemnity arrangement” may comprise—

- (a) a policy of insurance;
- (b) an arrangement made for the purposes of indemnifying a person;
- (c) a combination of the two.

(3) For the purposes of this section, “appropriate cover”, in relation to practice as a member of a profession complementary to dentistry, means cover against liabilities that may be incurred in practising as such which is appropriate, having regard to the nature and extent of the risks of practising as such.

(4) Rules may make provision in connection with the information to be provided to the registrar—

- (a) by or in respect of a person seeking registration in the dental care professionals register under a particular title (whether or not that person is already registered in that register under any other title or titles) for the purpose of determining whether, if his name is entered in the register under that title, there will be in force in relation to him by the time he begins to practise an indemnity arrangement which provides appropriate cover;
- (b) by or in respect of a person seeking restoration of his name in the dental care professionals register under a particular title (whether or not that person is already registered in that register under any other title or titles) for the purpose of determining whether, if his name is restored in the register under a particular title, there will be in force in relation to him by the time he resumes practice an indemnity arrangement, which provides appropriate cover; and
- (c) by or in respect of a registered dental care professional seeking retention of his name in the dental care professionals register under a particular title for the purpose of determining whether, if his name is retained in the register, there will continue to be in force in relation to him an indemnity arrangement which provides appropriate cover.

(5) Rules may make provision requiring a registered dental care professional to inform the registrar if there ceases to be in force in relation to him an indemnity arrangement which provides appropriate cover.

(6) Rules may make provision requiring a registered dental care professional to inform the registrar if there is in force in relation to him appropriate cover under an indemnity arrangement provided by an employer.

(7) Rules made under subsection (4) above may require the information mentioned there to be provided—

- (a) at the request of the registrar; or
- (b) on such dates or at such intervals as the registrar may determine, either generally or in relation to individual dental care professionals or dental care professionals of a particular description.

(8) Where a person fails to comply with rules made under subsection (4), or there is a failure to comply with rules made under subsection (4) in relation to him, in relation to any title in the dental care professionals register, the registrar may with regard to that person’s name—

- (a) refuse to register it in that register under that title;
- (b) refuse to restore it to that register under that title; or
- (c) erase it from that register under that title.

(9) Where a registered dental care professional is in breach of subsection (1) or fails to comply with rules made under this section, the breach or failure may be treated as misconduct for the purposes of section 36N, and the registrar may refer the matter to the Investigating Committee for investigation by them under section 36N(5)(a).

(10) Where, under subsection (8)(c), a person's name has been erased from the register under a particular title, that name shall be restored to the dental care professionals register under that title on that person's application, if he satisfies the registrar—

- (a) of Matter D within the meaning of section 36C; and
- (b) that he meets the requirements of—
 - (i) this section, and
 - (ii) any rules made under section 36Z2 which apply to that person's case.

(11) This section does not apply to a person who is registered by virtue of section 36Z3 (visiting dental care professionals from relevant European States) ”.

Amendment of Schedule 4A

6. In Schedule 4A(a) (registration appeals: dental care professionals register) in paragraph 2(1)(e), for “section 36L(9)(a), (b) or (c)” substitute “section 36L(8)(a)(b) or (c)”.

PART 3

Amendments to the Opticians Act 1989 and related matters

Amendment of section 10A

7. For section 10A of the Opticians Act 1989(b) (insurance for individual registrants and applying for their name to be registered), substitute—

“10A (Indemnity arrangements for individual registrants and persons applying for their name to be registered)

(1) A registered optometrist or registered dispensing optician who practises as such (as the case may be) must have in force in relation to him an indemnity arrangement which provides appropriate cover.

(2) For the purposes of this section, an “indemnity arrangement” may comprise—

- (a) a policy of insurance;
- (b) an arrangement made for the purposes of indemnifying a person;
- (c) a combination of the two.

(3) For the purposes of this section, “appropriate cover”, in relation to practice as a registered optometrist or registered dispensing optician, means cover against liabilities that may be incurred in practising as such which is appropriate, having regard to the nature and extent of the risks of practising as such.

(4) The Council may make rules in connection with the information provided to the Registrar—

- (a) by or in respect of a person seeking registration in the register of optometrists or dispensing opticians for the purpose of determining whether, if his name is entered in the appropriate register, there will be in force in relation to him by the time he begins to practise an indemnity arrangement which provides appropriate cover;

(a) Inserted by S.I. 2005/2011.

(b) 1989 c. 44.

- (b) by or in respect of a person seeking restoration of his name in the register of optometrists or dispensing opticians for the purpose of determining whether, if his name is restored in the appropriate register, there will be in force in relation to him by the time he resumes practice an indemnity arrangement which provides appropriate cover;
 - (c) by or in respect of a registered optometrist or registered dispensing optician seeking retention of his name in the register of optometrists or dispensing opticians for the purpose of determining whether, if his name is retained in the appropriate register, there will continue to be in force in relation to him an indemnity arrangement which provides appropriate cover.
- (5) Rules made under subsection (4)(c) may require the information mentioned there to be provided—
- (a) at the request of the registrar; or
 - (b) on such dates or at such intervals as the registrar may determine, either generally or in relation to individual registrants or registrants of a particular description.
- (6) The Council may also make rules requiring a registered optometrist or registered dispensing optician to inform the registrar if there ceases to be in force in relation to him an indemnity arrangement which provides appropriate cover.
- (7) The Council may also make rules requiring a registered optometrist or registered dispensing optician to inform the registrar if there is in force in relation to him, appropriate cover provided under an indemnity arrangement provided by an employer.
- (8) Where a person fails to comply with rules made under subsection (4), or there is a failure to comply with rules made under subsection (4) in relation to him, the registrar may with regard to that person's name—
- (a) refuse to register it in the appropriate register;
 - (b) refuse to restore it to the appropriate register;
 - (c) remove it from the appropriate register.
- (9) Where a registered optometrist or registered dispensing optician is in breach of subsection (1) or fails to comply with rules made under this section—
- (a) the registrar may remove that person's name from the appropriate register;
 - (b) the breach or failure may be treated as misconduct for the purposes of section 13D(2)(a), and the registrar may refer the matter to the Investigation Committee for investigation by them under section 13D(5).
- (10) Where a person's name has been removed from the appropriate register under subsection (8)(c), that name shall be restored to the appropriate register on that person's application, if the registrar is satisfied that the person meets the requirements of—
- (a) section 8(1) and (2);
 - (b) this section; and
 - (c) any rules made under section 7, 11A or 11B(6) which apply to that person's case.
- (11) This section does not apply to a person who is registered by virtue of section 8B (visiting opticians from relevant European States).”.

Amendment of rule 7

8. In the Schedule to the General Optical Council (Registration Rules) Order of Council 2005(a), in rule 7 (additional information required from individual applicants for registration or restoration as an optometrist or a dispensing optician), for paragraphs (e) and (f) substitute—

(a) S.I. 2005/1478.

- “(e) evidence that, if the applicant’s name were to be entered in the register, that applicant would have in place appropriate cover under an indemnity arrangement for the purposes of complying with section 10A (indemnity arrangements for individual registrants and persons applying for their name to be registered);
- (f) a copy of that indemnity arrangement or a means of identifying the terms of that indemnity arrangement.”.

PART 4

Amendments to the Osteopaths Act 1993

Amendment of section 37

9. For section 37 of the Osteopaths Act 1993(a) (professional indemnity insurance), substitute—

“37 Indemnity arrangements

(1) A registered osteopath (other than a temporarily registered osteopath) who practises as such must have in force in relation to him an indemnity arrangement which provides appropriate cover.

(2) For the purposes of this section, an indemnity arrangement may comprise—

- (a) a policy of insurance;
- (b) an arrangement made for the purposes of indemnifying a person;
- (c) a combination of the two.

(3) For the purposes of this section, “appropriate cover”, in relation to practice as a registered osteopath, means cover against liabilities that may be incurred in practising as such which is appropriate, having regard to the nature and extent of the risks of practising as such.

(4) The General Council may by rules make provision in connection with the types of indemnity arrangement required and with the provision of information to be provided to the Registrar—

- (a) by or in respect of any person seeking to be entered in the register as a registered osteopath (including on an application for restoration) for the purposes of determining whether, if that person is so entered, there will be in force in relation to that person by the time that person begins to practise an indemnity arrangement which provides appropriate cover;
- (b) by or in respect of a registered osteopath for the purposes of determining whether at any time, there is in force an indemnity arrangement which provides appropriate cover in relation to that registered osteopath.

(5) Rules under subsection (4)(b) may require information to be provided—

- (a) at the request of the Registrar; or
- (b) on such dates or at such intervals as the Registrar may determine, either generally or in relation to individual registered osteopaths or registered osteopaths of a particular description.

(6) The General Council may also make rules requiring a registered osteopath to inform the Registrar if there ceases to be in force in relation to that registered osteopath an indemnity arrangement which provides appropriate cover.

(a) 1993 c. 21.

(7) The General Council may also make rules requiring a registered osteopath to inform the Registrar if there is in force in relation to that registered osteopath appropriate cover provided under an indemnity arrangement by an employer.

(8) Where there is a failure to comply with the rules under subsection (4) by or in respect of a person who is entered or is seeking to be entered in the register, the Registrar may refuse to enter the person in, or to restore the person's entry to, the register.

(9) If a registered osteopath is in breach of subsection (1), or fails to comply with rules under subsection (4)(b), (6) or (7), or there is a failure to comply with rules under subsection (4)(b) in respect of a registered osteopath—

- (a) the Registrar may remove that person's entry from the register; or
- (b) the breach or failure may be treated as unacceptable professional conduct and the Registrar may notify the Council .”.

PART 5

Amendments to the Chiropractors Act 1994

Amendment of section 37

10. For section 37 of the Chiropractors Act 1994(a) (professional indemnity insurance), substitute—

“37 Indemnity arrangements

(1) A registered chiropractor (other than a temporarily registered chiropractor) who practises as such must have in force in relation to him an indemnity arrangement which provides appropriate cover for practising as such.

(2) For the purposes of this section, an indemnity arrangement may comprise—

- (a) a policy of insurance;
- (b) an arrangement made for the purposes of indemnifying a person;
- (c) a combination of the two.

(3) For the purposes of this section, “appropriate cover”, in relation to practice as a registered chiropractor, means cover against liabilities that may be incurred in practising as such which is appropriate, having regard to the nature and risks of practising as such.

(4) The General Council may make by rules make provision in connection with the types of indemnity arrangement required and with the provision of information to be provided to the Registrar—

- (a) by or in respect of any person seeking to be entered in the register as a registered chiropractor (including on an application for restoration) for the purposes of determining whether, if that person is so entered, there will be in force in relation to that person, an indemnity arrangement which provides appropriate cover which commences, at the latest, on the date, when that person starts to practise;
 - (b) by or in respect of a registered chiropractor for the purposes of determining whether at any time, there is in force an indemnity arrangement which provides appropriate cover in relation to that registered chiropractor.
- (5) Rules under subsection (4)(b) may require information to be provided—
- (a) at the request of the Registrar; or

(a) 1994 c. 17.

- (b) on such dates or at such intervals as the Registrar may determine, either generally or in relation to individual registered chiropractors or registered chiropractors of a particular description.

(6) The General Council may also make rules requiring a registered chiropractor to inform the Registrar if there ceases to be in force in relation to that registered chiropractor an indemnity arrangement which provides appropriate cover.

(7) The General Council may also make rules requiring a registered chiropractor to inform the Registrar if there is in force in relation to that registered chiropractor appropriate cover under provided under an indemnity arrangement by an employer.

(8) Where there is a failure to comply with the rules under subsection (4) by or in respect of a person who is entered or is seeking to be entered in the register, the Registrar may refuse to enter the person in, or to restore the person's entry to the register.

(9) If a registered chiropractor is in breach of subsection (1), or fails to comply with rules under subsection (4)(b), (6) or (7), or there is a failure to comply with rules under (4)(b) in respect of a registered chiropractor—

- (a) the Registrar may remove that person's entry from the register; or
- (b) the breach or failure may be treated as unacceptable professional conduct for the purposes of section 20(2) and the Registrar may notify the Council.”.

PART 6

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

11. The Health and Social Work Professions Order 2001(a) is amended in accordance with paragraphs 12 to 17.

Amendment of article 9

12. In article 9(b)(registration)—

- (a) in paragraph (2), for “Subject to paragraph (3)” substitute “Subject to paragraphs (3) and (3A)”;
- (b) in paragraph (2), after sub-paragraph (b) insert—

“(ba) satisfies the Registrar that there is in force in relation to the applicant or there will be as necessary for the purpose of complying with article 11A, appropriate cover under an indemnity arrangement;”;

and
- (c) after paragraph (3) insert—

“(3A) Paragraph (2)(ba) does not apply in the case of an applicant seeking admission to that part of the register which relates to the social work profession in England.”.

Amendment of article 10

13. In article 10(c) (renewal of registration and readmission)—

- (a) in paragraph (2), after sub-paragraph (a) insert—

“(aa) satisfies the Registrar that there is in force in relation to the applicant or there will be as necessary for the purpose of complying with article 11A, appropriate cover under an indemnity arrangement;”;

and

(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) Amended by S.I. 2007/3101.

(c) Amended by S.I. 2007/3101.

- (b) in paragraph (4), after sub-paragraph (a) (but before the following “and”), insert—
 - “(aa) the applicant satisfies the Registrar that there is in force in relation to the applicant or there will be as necessary for the purpose of complying with article 11A, appropriate cover under an indemnity arrangement;”; and
- (c) after paragraph (6) insert—
 - “(7) Paragraphs (2)(aa) and (4)(aa) do not apply to registration as a social worker in England.”.

Amendment of article 11

14. In article 11(lapse of registration), after paragraph (1) insert—

- “(1A) The rules may—
 - (a) provide for the Registrar to require a registrant to satisfy the Registrar that there is in force in relation to the registrant appropriate cover under an indemnity arrangement;
 - (b) provide for the registrant’s name to be removed from the register if the registrant fails to comply with a requirement imposed under sub-paragraph (a).
- (1B) Rules under paragraph (1A) may require information to be provided—
 - (a) at the request of the Registrar; or
 - (b) on such dates or at such intervals as the Registrar may determine, either generally or in relation to individual registrants or registrants of a particular description.
- (1C) Paragraph (1A) does not apply to registration as a social worker in England.”.

New article 11A

15. After article 11 insert—

“Indemnity arrangements

11A.—(1) Each registrant who practises as a member of one of the relevant professions must have in force in relation to that registrant an indemnity arrangement which provides appropriate cover.

(2) For the purposes of this article and articles 9, 10, 11, 33 and 37, an “indemnity arrangement” may comprise—

- (a) a policy of insurance;
- (b) an arrangement made for the purposes of indemnifying a person; or
- (c) a combination of the two.

(3) For the purposes of this article and those articles, “appropriate cover”, in relation to practice as a member of one of the relevant professions, means cover against liabilities that may be incurred in practising as such which is appropriate, having regard to the nature and extent of the risks of practising as such.

(4) The Council may make rules in connection with the information to be provided to the Registrar—

- (a) by or in respect of a person applying for registration (including readmission) for the purpose of determining whether or not the Registrar is satisfied that if the person is registered, there will be in force in relation to that person, by the time that person begins to practise an indemnity arrangement which provides appropriate cover;
- (b) by or in respect of a person applying for renewal of their registration for the purpose of determining whether or not the Registrar is satisfied that if the person’s registration is renewed, there will be in force in relation to that person, by the time

that person resumes practice an indemnity arrangement which provides appropriate cover; and

- (c) by or in respect of a registrant in circumstances where, in accordance with rules under article 11(1A), the Registrar requires the registrant to satisfy the Registrar that there is in force in relation to the registrant an indemnity arrangement which provides appropriate cover before the expiry of a specified period.

(5) The Council may also make rules requiring a registrant to inform the Registrar if there ceases to be in force in relation to the registrant an indemnity arrangement which provides appropriate cover.

(6) The Council may also make rules requiring a registrant to inform the Registrar if there is in force in relation to the registrant appropriate cover provided under an indemnity arrangement by an employer.

(7) If a registrant is in breach of paragraph (1)—

- (a) the Registrar may remove that person from the register; or
- (b) the breach may be treated as misconduct for the purposes of article 22(1)(a)(i).

(8) If an applicant breaches rules under paragraph (4)(a), or there is a breach in respect of the applicant of rules under paragraph (4)(a), the Registrar may refuse the applicant's application for admission (or readmission) to the register.

(9) If a registrant breaches rules under paragraph (4)(b) or (c), that breach may be treated as misconduct for the purposes of article 22(1)(a)(i).

(10) For the purposes of this article, relevant profession does not include the social work profession in England.

(11) This article does not apply to a person who has an entitlement to be registered under article 13A (visiting health professionals from relevant European States)."

Amendment of article 33

16. In article 33 (restoration to the register of persons who have been struck off), after paragraph (2) insert—

“(2A) An application for restoration must be supported by evidence that there is in force in relation to the applicant or will be as necessary for the purpose of complying with article 11A appropriate cover under an indemnity arrangement; but this does not apply to an application for restoration to that part of the register that relates to the social work profession in England.”.

Amendment of article 37

17. In article 37(a) (appeals against decisions of the Education and Training Committee)—

(a) in paragraph (1), after sub-paragraph (aa) insert—

“(ab) removes the name of a registrant from the register on the grounds that the registrant has failed to satisfy the Registrar that there is in force in relation to the registrant appropriate cover under an indemnity arrangement unless that removal is in consequence of a refusal of an application for renewal (including an application for readmission where registration has lapsed);”.

(b) after paragraph (1), insert—

“(1A) Paragraph (1)(ab) does not apply to registration as a social worker in England.”; and

(c) after paragraph (2), insert—

(a) Amended by S.I. 2004/2033, 2007/3101 and 2009/1182; and section 216 of the Health and Social Care Act 2012 (c. 7).

“(2A) No appeal lies to the Council if the complaint of the person aggrieved is, in effect, that a provision of rules under article 7, 9, 10, 11 or 11A is invalid.”.

18. The Schedule to the Health Professions Council (Registration and Fees) Rules Order of Council 2003(a) is amended in accordance with paragraphs 19 and 20.

Amendment of rule 4

19. In rule 4(b) (applications for registration), after sub-paragraph (c) (but before the following “and”) insert—

“(ca) evidence that there is in force in relation to the applicant, or will be as necessary for the purpose of complying with article 11A of the Order, appropriate cover under an indemnity arrangement;”.

Amendment of Schedule 2

20. In paragraph 1 of Schedule 2 (application for renewal of registration), in paragraph (1), after sub-paragraph (d) insert—

“(da) evidence that there is in force in relation to the applicant, or will be as necessary for the purpose of complying with article 11A of the Order, appropriate cover under an indemnity arrangement;”.

PART 7

Amendments to the Nursing and Midwifery Order 2001 and related matters

21. The Nursing and Midwifery Order 2001(c) is amended in accordance with paragraphs 22 to 28.

Amendment of article 9

22. In article 9(d) (registration), in paragraph (2), after sub-paragraph (a) insert—

“(aa) satisfies the Registrar that there is in force in relation to the applicant, or there will be as necessary for the purpose of complying with article 12A, appropriate cover under an indemnity arrangement;”.

Amendment of article 10

23. In article 10(e) (renewal of registration and readmission)—

(a) in paragraph (2), after sub-paragraph (a) insert—

“(aa) satisfies the Registrar that there is in force in relation to the applicant or there will be as necessary for the purpose of complying with article 12A, appropriate cover under an indemnity arrangement;”; and

(b) in paragraph (4), after sub-paragraph (a) (but before the following “and”) insert—

“(aa) the applicant satisfies the Registrar that there is in force in relation to the applicant or there will be as necessary for the purpose of complying with article 12A, appropriate cover under an indemnity arrangement;”.

(a) S.I. 2003/1572.

(b) Amended by S.I. 2004/2524, 2005/1625, 2007/1280 and 2011/210.

(c) S.I. 2002/253.

(d) Amended by S.I. 2007/3101.

(e) Amended by S.I. 2007/3101.

Amendment of article 12

24. In article 12 (lapse of registration), after paragraph (1) insert—

“(1A) The rules may—

- (a) provide for the Registrar to require a registrant to satisfy the Registrar that there is in force in relation to the registrant appropriate cover under an indemnity arrangement;
- (b) provide for a registrant’s name to be removed from the register if the registrant fails to comply with a requirement imposed under sub-paragraph (a).

(1B) Rules under paragraph (1A) may require information to be provided—

- (a) at the request of the Registrar; or
- (b) on such dates or at such intervals as the Registrar may determine, either generally or in relation to individual registrants or registrants of a particular description.”.

New article 12A

25. After article 12 insert—

“Indemnity arrangements

12A.—(1) Each registrant who practises as a nurse or midwife must have in force in relation to that registrant an indemnity arrangement which provides appropriate cover.

(2) For the purposes of this article and articles 9, 10, 12, 33 and 37, an “indemnity arrangement” may comprise—

- (a) a policy of insurance;
- (b) an arrangement made for the purposes of indemnifying a person; or
- (c) a combination of the two.

(3) For the purposes of this article and those articles, “appropriate cover”, in relation to practice as a nurse or midwife, means cover against liabilities that may be incurred in practising as such which is appropriate, having regard to the nature and extent of the risks of practising as such.

(4) The Council may make such provision in rules in connection with the information to be provided to the Registrar—

- (a) by or in respect of a person applying for registration (including on application for restoration or readmission) for the purpose of determining whether or not the Registrar is satisfied that if the person is registered, there will be in force in relation to that person, by the time that person begins to practise an indemnity arrangement which provides appropriate cover;
- (b) by or in respect of a person applying for renewal of their registration for the purpose of determining whether or not the Registrar is satisfied that if the person’s registration is renewed, there will be in force in relation to that person, by the time that person resumes practice an indemnity arrangement which provides appropriate cover; and
- (c) by or in respect of a registrant in circumstances where, in accordance with rules under article 12(1A), the Registrar requires the registrant to satisfy the Registrar that there is in force in relation to the registrant an indemnity arrangement which provides appropriate cover before the expiry of a specified period.

(5) The Council may also make rules requiring a registrant to inform the Registrar if there ceases to be in force in relation to that registrant appropriate cover under an indemnity arrangement.

(6) The Council may also make rules requiring a registrant to inform the Registrar if there is in force in relation to that registrant appropriate cover provided under an indemnity arrangement by an employer.

(7) If a registrant is in breach of paragraph (1)—

(a) the Registrar may remove that person from the register; or

(b) the breach may be treated as misconduct for the purposes of article 22(1)(a)(i).

(8) If an applicant breaches rules under paragraph (4), or there is a breach of rules under that paragraph in respect of the applicant the Registrar may refuse the applicant's application for—

(i) admission (or readmission) to the register;

(ii) restoration to the register;

(iii) renewal.

(9) If a registrant breaches rules under paragraph (4)(b) or (c), that breach may be treated as misconduct for the purposes of article 22(1)(a)(i).

(10) This article does not apply to a person who has an entitlement to be registered under article 39 and Schedule 2A (visiting midwives, and certain nurses from relevant European States). ”.

Amendment of article 33

26. In article 33 (restoration to the register of persons who have been struck off), after paragraph (2) insert—

“(2A) An application for restoration must be supported by evidence that there is in force in relation to the applicant or will be as necessary for the purpose of complying with article 12A appropriate cover under an indemnity arrangement.”.

Amendment of article 37

27. In article 37(a) (appeals against Registrar's decisions)—

(a) in paragraph (1), after sub-paragraph (aa) insert—

“(ab) removes the name of a registrant from the register on the grounds that the registrant has failed to satisfy the Registrar that there is in force in relation to the registrant appropriate cover under an indemnity arrangement unless that removal is in consequence of a refusal of an application for renewal (including an application for readmission where registration has lapsed);”; and

(b) after paragraph (2A), insert—

“(2B) No appeal lies to the Council if the complaint of the person aggrieved is, in effect, that a provision of rules under article 7, 9, 10, 12 or 12A is invalid.”.

Amendment of Schedule 2A

28. In Schedule 2A(b) (visiting midwives, and certain visiting nurses, from relevant European States), in paragraph 5 (first provision of services: required documents), in sub-paragraph (2), after paragraph (a) insert—

“(aa) a written declaration that contains details of the insurance cover, or other means of personal or collective protection, that the practitioner has with regard to professional liability;”.

(a) Amended by S.I. 2007/3101.

(b) Inserted by S.I. 2007/3101.

29. The Schedule to the Nursing and Midwifery Council (Education, Registration and Registration Appeals) Rules Order of Council 2004(a) is amended in accordance with paragraphs 30 to 32.

Amendment of rule 5

30. In rule 5(b) (application for admission to a part of the register), in paragraph (2), omit the “and” at the end of sub-paragraph (a)(iv) and after paragraph (a) insert—

“(aa) evidence that there is in force in relation to the applicant, or will be as necessary for the purpose of complying with article 12A of the Order, appropriate cover under an indemnity arrangement;”.

Amendment of rule 13

31. In rule 13(c) (renewal of registration), in paragraph (1), after sub-paragraph (a) insert—

“(aa) evidence that there is in force in relation to the applicant, or there will be as necessary for the purpose of complying with article 12A of the Order, appropriate cover under an indemnity arrangement;”.

Amendment of rule 15

32. In rule 15(d) (readmission to the register), in paragraph (2), after “Rules 5(1)” insert “, (2)(aa) and (b)”.

PART 8

Amendments to the Pharmacy Order 2010 and related matters

33. The Pharmacy Order 2010(e) is amended in accordance with paragraphs 34 and 35.

Amendment of article 23

34. In article 23 (form, manner and content of applications for entry or renewal of an entry in the Register : pharmacists and pharmacy technicians), after paragraph (1)(b), insert—

“(ba) the document conferring, or the evidence to be provided for the purpose of satisfying the Registrar that there is in force in relation to the applicant or there will be as necessary for the purpose of complying with article 32, appropriate cover under an indemnity arrangement;”.

Amendment of article 32

35. For article 32 (indemnity arrangements), substitute—

“Indemnity arrangements

32.—(1) A registrant who practises as a pharmacist or pharmacy technician must have in force an indemnity arrangement which provides appropriate cover in relation to that registrant in respect of liabilities which may be incurred in practising as such.

(2) For the purposes of this article, an “indemnity arrangement” may comprise—

(a) S.I. 2004/1767.

(b) Amended by S.I. 2007/3101.

(c) Amended by S.I. 2005/3354.

(d) Amended by S.I. 2007/3101.

(e) S.I. 2010/231.

- (a) a policy of insurance;
- (b) an arrangement made for the purposes of indemnifying a person; or
- (c) a combination of the two.

(3) For the purposes of this article, “appropriate cover”, in relation to practice as a pharmacist or pharmacy technician, means cover against liabilities that may be incurred in practising as such which is appropriate, having regard to the nature and extent of the risks of practising as such.

(4) The Council may make such provision in rules in connection with the information to be provided to the Registrar—

- (a) by or in respect of any person seeking to be entered in any part of the Register as a pharmacist or pharmacy technician (including on an application for restoration) for the purposes of determining whether if that person is so entered, there will be in force in relation to that person by the time that person begins to practise an indemnity arrangement which provides appropriate cover;
- (b) by or in respect of a registrant for the purposes of determining whether, at any time, there is in force an indemnity arrangement which provides appropriate cover in relation to that registrant.

(5) Rules under paragraph (4)(b) may require information to be provided—

- (a) at the request of the Registrar; or
- (b) on such dates or at such intervals as the Registrar may determine, either generally or in relation to individual registrants or registrants of a particular description.

(6) The Council may also make rules requiring a registrant to inform the Registrar if there ceases to be in force in relation to that registrant an indemnity arrangement which provides appropriate cover.

(7) The Council may also make rules requiring a registrant to inform the Registrar if there is in force in relation to that registrant appropriate cover provided under an indemnity arrangement by an employer.

(8) Where there is a failure to comply with the rules under paragraph (4) by or in respect of a person who is entered, or who is seeking to be entered, in any part of the Register, the Registrar may refuse to enter the person in, or to restore the person’s entry to, that part of the Register.

(9) If a registrant is in breach of paragraph (1), or fails to comply with rules under paragraph (4)(b), (6) or (7), or there is a failure to comply with rules under paragraph (4)(b) in respect of a registrant—

- (a) the Registrar may remove that person’s entry from Part 1, 2, 4 or 5 of the Register (as the case may be); or
- (b) the breach or failure may be treated as misconduct for the purposes of article 51(1)(a) and the Registrar must consider, in accordance with article 52(1), whether or not to refer the matter to the Investigating Committee or (where rules under article 52(2) so provide) to the Fitness to Practise Committee.

(10) Where the Registrar—

- (a) refuses to enter a person in any part of the Register, or to restore a person’s entry to any part of the Register pursuant to paragraph (8); or
- (b) removes a person’s entry from any part of the Register, pursuant to paragraph (9)(a),

the Registrar must send to the person at the person’s last known address a statement in writing giving the person notice of the decision and the reasons for it and the right of appeal to the Appeals Committee under article 40.

(11) This article does not apply to a person who is registered by virtue of Schedule 2 (visiting pharmacists from relevant European States). ”.

36. The Schedule to the General Pharmaceutical Council (Registration Rules) Order of Council 2010(a) is amended in accordance with paragraphs 37 to 39.

Amendment of rule 10

37. In rule 10 (entry in the register), in paragraph (3), after sub-paragraph (g) insert—

“(gg) evidence that there is in force in relation to the applicant, or will be as necessary for the purpose of complying with article 32 of the Order, appropriate cover under an indemnity arrangement;”.

38. In rule 11 (renewal of an entry in the Register), after paragraph (4)(a)(ii) insert—

“(iia) provide evidence that there is in force in relation to the registrant, or will be as necessary for the purpose of complying with article 32 of the Order, appropriate cover under an indemnity arrangement;”.

39. In rule 16 (restoration of an entry in the register), after paragraph (3)(a)(iii) insert—

“(iiia) evidence that there is in force in relation to the applicant, or there will be as necessary for the purpose of complying with article 32 of the Order, appropriate cover under an indemnity arrangement;”.

SCHEDULE 2

Article 2(2)

Amendments to and revocations of other subordinate legislation

Amendment of the National Health Service (General Medical Services Contracts) Regulations 2004

1. In Schedule 6 (other contractual terms) of the National Health Service (General Medical Services Contracts) Regulations 2004(b)—

- (a) in paragraph 122(1), for “hold adequate insurance”, substitute “have in force in relation to it an indemnity arrangement which provides appropriate cover”;
- (b) in paragraph 122(2), for “holds adequate insurance”, substitute “has an indemnity arrangement which provides appropriate cover”;
- (c) in paragraph 122(3), after paragraph (a) (but before the following “and”) insert—

“(aa) “appropriate cover” means cover against liabilities that may be incurred by the contractor or subcontractor (as the case may be) in the performance of clinical services under the contract, which is appropriate, having regard to the nature and extent of the risks in the performance of such services;”;
- (d) in paragraph 122(3)(b), for “holding insurance”, substitute “having an indemnity arrangement”; and
- (e) in paragraph 123, for “insurance” substitute “indemnity arrangement”.

Amendment of the National Health Service (Personal Medical Services Agreements) Regulations 2004

2. In Schedule 5 (other contractual terms), for paragraphs 113 and 114 of the National Health Service (Personal Medical Services Agreements) Regulations(c)—

- (a) in paragraph 113(1), for “hold adequate insurance”, substitute “have in force in relation to it an indemnity arrangement which provides appropriate cover”;

(a) S.I. 2010/1617.
(b) S.I. 2004/291.
(c) S.I. 2004/627.

- (b) in paragraph 113(2), for “holds adequate insurance”, substitute “has an indemnity arrangement which provides appropriate cover”;
- (c) in paragraph 113(3)(a), for “insurance”, substitute “an indemnity arrangement”;
- (d) in paragraph 113(3)(a), after paragraph (a) (but before the following “and”) insert—
 - “(aa) “appropriate cover” means cover against liabilities that may be incurred by the contractor or subcontractor (as the case may be) in the performance of clinical services under the contract, which is appropriate, having regard to the nature and extent of the risks in the performance of such services;”;
- (e) in paragraph 113(3)(b), for “holding insurance”, substitute “having an indemnity arrangement”; and
- (f) in paragraphs 114(1) and (2), for “insurance”, substitute “indemnity arrangement”.

Amendment of the National Health Service (General Medical Services Contracts)(Scotland) Regulations 2004

3. In Schedule 5 (other contractual terms), for paragraphs 112 and 113 of the National Health Service (General Medical Services Contracts) (Scotland) Regulations 2004**(a)**—

- (a) in paragraph 112(1), for “hold adequate insurance”, substitute “have in force in relation to it an indemnity arrangement which provides appropriate cover”;
- (b) in paragraph 112(2), for “holds adequate insurance”, substitute “has an indemnity arrangement which provides appropriate cover”;
- (c) in paragraph 112(3)(a), for “insurance”, substitute “an indemnity arrangement”;
- (d) in paragraph 112(3)(a), after paragraph (a) (but before the following “and”) insert—
 - “(aa) “appropriate cover” means cover against liabilities that may be incurred by the contractor or subcontractor (as the case may be) in the performance of clinical services under the contract, which is appropriate, having regard to the nature and extent of the risks in the performance of such services;”;
- (e) in paragraph 112(3)(b), for “holding insurance”, substitute “having an indemnity arrangement”; and
- (f) in paragraph 113, for “insurance”, substitute “indemnity arrangement”.

Amendment of the National Health Service (Primary Medical Service Section 17C Agreements)(Scotland) Regulations 2004

4. In Schedule 1 (content of agreements), for paragraphs 76 and 77 of the National Health Service (Primary Medical Services Section 17C Agreements) (Scotland) Regulations 2004**(b)**—

- (a) in paragraph 76(1), for “hold insurance”, substitute “have in force in relation to it an indemnity arrangement which provides appropriate cover”;
- (b) in paragraph 76(2), for “holds adequate insurance”, substitute “has an indemnity arrangement which provides appropriate cover”;
- (c) in paragraph 76(3)(a), for “insurance”, substitute “an indemnity arrangement”;
- (d) in paragraph 76(3)(a), after paragraph (a) (but before the following “and”) insert—
 - “(aa) “appropriate cover” means cover against liabilities that may be incurred by the contractor or subcontractor (as the case may be) in the performance of clinical services under the agreement, which is appropriate, having regard to the nature and extent of the risks in the performance of such services;”;
- (e) in paragraph 76(3)(b), for “holding insurance”, substitute “having an indemnity arrangement”; and

(a) S.S. I. 2004/115.
 (b) S.S. I. 2004/116.

- (f) in paragraph 77, for “insurance”, substitute “indemnity arrangement”.

Amendment of the National Health Service (General Medical Services Contracts) (Wales) Regulations 2004

5. In Schedule 6 (other contractual terms), for paragraphs 120 and 121 of the National Health Service (General Medical Contracts) (Wales) Regulations 2004(a)—

- (a) in paragraph 120(1), for “hold adequate insurance”, substitute “have in force in relation to it an indemnity arrangement which provides appropriate cover”;
- (b) in paragraph 120(2), for “holds adequate insurance”, substitute “has an indemnity arrangement which provides appropriate cover”;
- (c) in paragraph 120(3)(a), for “insurance”, substitute “an indemnity arrangement”;
- (d) in paragraph 120(3)(a), after paragraph (a) (but before the following “and”) insert—
 - “(aa) “appropriate cover” means cover against liabilities that may be incurred by the contractor or subcontractor (as the case may be) in the performance of clinical services under the contract, which is appropriate, having regard to the nature and extent of the risks in the performance of such services;”;
- (e) in paragraph 120(3)(b), for “holding insurance”, substitute “having an indemnity arrangement”; and
- (f) in paragraph 121, for “insurance”, substitute “indemnity arrangement”.

Amendment of the Health and Personal Services (General Medical Services Contracts) Regulations (Northern Ireland) 2004

6. In Schedule 5 (other contractual terms) for paragraphs 114 and 115 of the Health and Personal Services, (General Medical Services Contracts) Regulations (Northern Ireland) 2004(b)—

- (a) in paragraph 114(1), for “hold adequate insurance”, substitute “have in force in relation to it an indemnity arrangement which provides appropriate cover”;
- (b) in paragraph 114(2), for “holds adequate insurance”, substitute “has an indemnity arrangement which provides appropriate cover”;
- (c) in paragraph 114(3)(a), for “insurance”, substitute “an indemnity arrangement”;
- (d) in paragraph 114(3)(a), after paragraph (a) (but before the following “and”) insert—
 - “(aa) “appropriate cover” means cover against liabilities that may be incurred by the contractor or subcontractor (as the case may be) in the performance of clinical services under the contract, which is appropriate, having regard to the nature and extent of the risks in the performance of such services;”;
- (e) in paragraph 114(3)(b), for “holding insurance”, substitute “having an indemnity arrangement”; and
- (f) in paragraph 115, for “insurance”, substitute “indemnity arrangement”.

Amendment of the National Health Service (General Dental Services Contracts) Regulations 2005

7. In Schedule 3 (other contractual terms) for paragraphs 81 and 82 of the National Health Service (General Dental Services Contracts) 2005(c)—

- (a) in paragraph 81(1), for “hold adequate insurance”, substitute “have in force in relation to it an indemnity arrangement which provides appropriate cover”;

(a) S.I. 2004/478.
(b) S.R. 2004 No 140.
(c) S.I. 2005/3361.

- (b) in paragraph 81(2), for “holds adequate insurance”, substitute “has an indemnity arrangement which provides appropriate cover”;
- (c) in paragraph 81(3)(a), for “insurance”, substitute “an indemnity arrangement”;
- (d) in paragraph 81(3)(a), after paragraph (a) (but before the following “and”) insert—
 - “(aa) “appropriate cover” means cover against liabilities that may be incurred by the contractor or subcontractor (as the case may be) in the performance of clinical services under the contract, which is appropriate, having regard to the nature and extent of the risks in the performance of such services;”;
- (e) in paragraph 81(3)(b), for “holding insurance”, substitute “having an indemnity arrangement”; and
- (f) in paragraphs 82(1) and (2), for “insurance”, substitute “indemnity arrangement”.

Amendment of the National Health Service (Personal Dental Services Agreements) Regulations 2005

8. In Schedule 3 (other contractual terms) for paragraphs 79 and 80 of the National Health Service (Personal Dental Services Agreements) Regulations 2005(**a**)—

- (a) in paragraph 79(1), for “hold adequate insurance”, substitute “have in force in relation to it an indemnity arrangement which provides appropriate cover”;
- (b) in paragraph 79(2), for “holds adequate insurance”, substitute “has an indemnity arrangement which provides appropriate cover”;
- (c) in paragraph 79(3)(a), for “insurance”, substitute “an indemnity arrangement”;
- (d) in paragraph 79(3)(a), after paragraph (a) (but before the following “and”) insert—
 - “(aa) “appropriate cover” means cover against liabilities that may be incurred by the contractor or subcontractor (as the case may be) in the performance of clinical services under the contract, which is appropriate, having regard to the nature and extent of the risks in the performance of such services;”;
- (e) in paragraph 79(3)(b), for “holding insurance”, substitute “having an indemnity arrangement”; and
- (f) in paragraphs 80(1) and (2), for “insurance”, substitute “indemnity arrangement”.

Amendment of the National Health Service (General Dental Services Contracts) (Wales) Regulations 2006

9. In Schedule 3 (other contractual terms) for paragraphs 81 and 82 of the National Health Service (General Dental Services Contracts) (Wales) Regulations 2006(**b**)—

- (a) in paragraph 81(1), for “hold adequate insurance”, substitute “have in force in relation to it an indemnity arrangement which provides appropriate cover”;
- (b) in paragraph 81(2), for “holds adequate insurance”, substitute “has an indemnity arrangement which provides appropriate cover”;
- (c) in paragraph 81(3)(a), for “insurance”, substitute “an indemnity arrangement”;
- (d) in paragraph 81(3)(a), after paragraph (a) insert—
 - “(aa) “appropriate cover” means cover against liabilities that may be incurred by the contractor or subcontractor (as the case may be) in the performance of clinical services under the contract, which is appropriate, having regard to the nature and extent of the risks in the performance of such services;”;
- (e) in paragraph 81(3)(b), for “holding insurance”, substitute “having an indemnity arrangement”; and

(a) S.I. 2005/3373.

(b) S.I. 2006/490.

- (f) in paragraphs 82(1) and (2), for “insurance”, substitute “indemnity arrangement”.

Amendment of the National Health Service (Personal Dental Services Agreements) (Wales) Regulations 2006

10. In Schedule 3 (other contractual terms) for paragraphs 79 and 80 of the National Health Service (Personal Dental Services Agreements) (Wales) Regulations 2006**(a)**—

- (a) in paragraph 79(1), for “hold adequate insurance”, substitute “have in force in relation to it an indemnity arrangement which provides appropriate cover”;
- (b) in paragraph 79(2), for “holds adequate insurance”, substitute “has an indemnity arrangement which provides appropriate cover”;
- (c) in paragraph 79(3)(a), for “insurance”, substitute “an indemnity arrangement”;
- (d) in paragraph 79(3)(a), after paragraph (a) (but before the following “and”) insert—
 - “(aa) “appropriate cover” means cover against liabilities that may be incurred by the contractor or subcontractor (as the case may be) in the performance of clinical services under the agreement, which is appropriate, having regard to the nature and extent of the risks in the performance of such services;”;
- (e) in paragraph 113(3)(b), for “holding insurance”, substitute “having an indemnity arrangement”; and
- (f) in paragraphs 80(1) and (2), for “insurance”, substitute “indemnity arrangement”.

Amendment of the General Ophthalmic Services Contracts Regulations 2008

11. In Schedule 1 (other contractual terms) for paragraph 51 of the General Ophthalmic Services Contracts Regulations 2008**(b)**—

- (a) in paragraph 51(1) for “hold adequate”, substitute “have in force in relation to it”;
- (b) in paragraph 51(1)(a), for “insurance”, substitute “an indemnity arrangement which provides appropriate cover”;
- (c) in paragraph 51(1)(b), for “insurance”, substitute “an indemnity arrangement”;
- (d) in paragraph 51(2)(a), for “insurance”, substitute “an indemnity arrangement”;
- (e) in paragraph 51(2), after paragraph (a) (but before the following “and”) insert—
 - “(aa) “appropriate cover” means cover against liabilities that may be incurred by the contractor or subcontractor (as the case may be) in the performance of clinical services under the contract, which is appropriate, having regard to the nature and extent of the risks in the performance of such services;”;
- (f) in paragraph 51(2)(b), for “holding insurance”, substitute “having an indemnity arrangement”.

SCHEDULE 3

Article 3

Transitional and saving provisions

Interpretation

1. In this Schedule—

- (a) “a pre-existing indemnity arrangement” means—

(a) S.I. 2006/489.
(b) S.I. 2008/1185.

- (i) an adequate and appropriate indemnity arrangement commenced on or before the 24 October 2013; or
- (ii) an adequate and appropriate insurance policy commenced on or before the 24 October 2013;
- (b) a reference to—
 - (i) an old section, an old article or old rule is to that section, article or rule as it had effect immediately before its amendment or substitution by this Order; and
 - (ii) a new section, a new article or new rule is to the section, article or rule as amended or substituted by this Order;
- (c) “the transitional period” means the twelve month period that ends at the end of 24th October 2014.

Medical Act 1983

2. Subject to paragraph 4, the obligation in the new section 44C(1) (indemnity arrangements) for a person who holds a licence to practise and is carrying out work as a medical practitioner to have an appropriate indemnity arrangement in respect of liabilities which that person may incur in carrying out work as a medical practitioner does not apply during the transitional period where there is a pre-existing indemnity arrangement in respect of that person.

3. Where paragraph 2 applies, the Registrar shall request in writing that a person provides evidence of a pre-existing indemnity arrangement to the Council within such period as the Registrar may specify.

4. Nothing in paragraph 2 affects the duty of a person who holds a licence to practise—

- (a) before the end of the transitional period, to comply with the obligation in the new section 44C(1) as it otherwise has effect on or before the expiry date of a pre-existing indemnity arrangement; and
- (b) at or after the end of the transitional period, to comply with the new section 44C(1) as amended by this Order.

Dentists Act 1984

5. Subject to paragraph 7, the obligation in the new section 26A(1)(indemnity arrangements) for a registered dentist who is carrying out work as a dental practitioner to have an appropriate indemnity arrangement in respect of liabilities which that person may incur in carrying out work as a dental practitioner does not apply during the transitional period where there is a pre-existing indemnity arrangement in respect of that registered dental practitioner.

6. Where paragraph 5 applies, the Registrar shall request in writing that a registered dentist provides evidence of a pre-existing indemnity arrangement to the Council within such period as the Registrar may specify.

7. Nothing in paragraph 5 affects the duty of a registered dentist—

- (a) before the end of the transitional period, to comply with the obligation in the new section 26A(1) as it otherwise has effect on or before the expiry of the pre-existing indemnity arrangement; and
- (b) at or after the end of the transitional period, to comply with the new section 26A(1).

8. Subject to paragraph 10, the new obligation in section 36L(1) (indemnity arrangements) for a registered dental care professional who is carrying out work as a member of a profession complementary to dentistry to have an appropriate indemnity arrangement in respect of liabilities which may be incurred in carrying out work as a member of a profession complementary to dentistry, does not apply during the transitional period where there is a pre-existing indemnity arrangement in respect of that member of such a complementary profession.

9. Where paragraph 8 applies, the Registrar shall request in writing that the registered dental care professional provides evidence of a pre-existing indemnity arrangement to the Council within such period as the Registrar may specify.

10. Nothing in paragraph 8 affects the duty of a registered dental care professional—

- (a) before the end of the transitional period, to comply with the obligation in the new section 36L(1) as it otherwise has effect on or before the expiry of the pre-existing indemnity arrangement; and
- (b) at or after the end of the transitional period, to comply with the new section 36L.

Opticians Act 1989

11. Subject to paragraph 13, the obligation in the new section 10A (indemnity arrangements for individual registrants and persons applying for their name to be registered) for a registered optometrist or registered dispensing optician who are carrying out work as a registered optometrist or registered dispensing optician to have an appropriate indemnity arrangement in respect of liabilities which may be incurred in carrying out work as a registered optometrist or registered dispensing optician, does not apply during the transitional period where there is a pre-existing indemnity arrangement in relation that registered optician or registered dispensing optician.

12. Where paragraph 11 applies, the Registrar shall request in writing that the registered optician or registered dispensing optician provides evidence of the pre-existing indemnity arrangement to the Council within such period as the Registrar may specify.

13. Nothing in paragraph 11 affects the duty of a registered optician or registered dispensing optician—

- (a) before the end of the transitional period, to comply with the obligation in the new section 10A as it otherwise has effect on or before the expiry of the pre-existing indemnity arrangement; and
- (b) at or after the end of the transitional period, to comply with the new section 10A.

14. Paragraphs (e) and (f) of the old rule 7 of the General Optical Council (Registration Rules) 2005 Rules shall continue to apply for the purpose of paragraph 11.

Osteopaths Act 1993

15. Subject to paragraph 17, the obligation in the new section 37(1) (indemnity arrangements) for a registered osteopath (but not including a temporarily registered osteopath) who is carrying out work as a registered osteopath to have an appropriate indemnity arrangement in respect of liabilities which may be incurred in carrying out work as a registered osteopath, does not apply during the transitional period where there is a pre-existing indemnity arrangement in relation to that registered osteopath.

16. Where paragraph 15 applies, the Registrar shall request in writing that the registered osteopath provides evidence of the pre-existing indemnity arrangement to the Council within such period as the Registrar may specify.

17. Nothing in paragraph 18 affects the duty of a registered osteopath—

- (a) before the end of the transitional period, to comply with the obligation in the new section 37(1) as it otherwise has effect on or before the expiry of the pre-existing indemnity arrangement; and
- (b) at or after the end of the transitional period, to comply with the new section 37(1).

18. The old section 37(1) and any rules made under the old section 37(1), shall continue to apply for the purpose of paragraph 15 of this Schedule.

Chiropractors Act 1994

19. Subject to paragraph 21, the obligation in the new section 37(1) (indemnity arrangements) for a registered chiropractor (but not including a temporarily registered chiropractor) who is carrying out work as a registered chiropractor to have an appropriate indemnity arrangement in respect of liabilities which may be incurred in carrying out work as a registered chiropractor, does not apply during the transitional period where there is a pre-existing indemnity arrangement in relation to that registered chiropractor.

20. Where paragraph 19 applies, the Registrar shall request in writing that the registered chiropractor provides evidence of the pre-existing indemnity arrangement to the Council within such period as the Registrar may specify.

21. Nothing in paragraph 19 affects the duty of a registered chiropractor—

- (a) before the end of the transitional period, to comply with the obligation in the new section 37(1) as it otherwise has effect on or before the expiry of the pre-existing indemnity arrangement; and
- (b) at or after the end of the transitional period, to comply with the new section 37(1).

22. The old section 37(1) and any rules made under the old section 37(1), shall continue to apply for the purpose of paragraph 19 of this Schedule.

Health and Social Work Professions Order 2001

23. Subject to paragraph 25, the obligation in the new article 11A(1) (indemnity arrangements) for a registrant who is carrying out work as a member of one of the relevant professions to have an appropriate indemnity arrangement in respect of liabilities which may be incurred in carrying out work as a member of one of the relevant professions, does not apply during the transitional period where there is a pre-existing indemnity arrangement in relation to that registrant.

24. Where paragraph 23 applies, the Registrar shall request in writing that a registrant provides evidence of the pre-existing indemnity arrangement to the Council within such period as the Registrar may specify.

25. Nothing in paragraph 23 affects the duty of a registrant—

- (a) before the end of the transitional period, to comply with the obligation in the new article 11A(1) as it otherwise has effect on or before the expiry of the pre-existing indemnity arrangement; and
- (b) at or after the end of the transitional period, to comply with the new article 11A(1).

Nursing and Midwifery Order 2001

26. Subject to paragraph 28, the obligation in the new article 12A(1) (indemnity arrangements) for a registrant who is carrying out work as a nurse or midwife to have an appropriate indemnity arrangement in respect of liabilities which may be incurred in carrying out work as a nurse or midwife, does not apply during the transitional period where there is a pre-existing indemnity arrangement in relation to that registrant.

27. Where paragraph 26 applies, the Registrar shall request in writing that a registrant provides evidence of the pre-existing indemnity arrangement to the Council within such period as the Registrar may specify.

28. Nothing in paragraph 26 affects the duty of a registrant—

- (a) before the end of the transitional period, to comply with the obligation in the new article 12A(1) as it otherwise has effect on or before the expiry of the pre-existing indemnity arrangement; and
- (b) at or after the end of the transitional period, to comply with the new article 12A(1).

Pharmacy Order 2010

29. Subject to paragraph 31, the obligation in the new article 32(1) (indemnity arrangements) for a registrant who is carrying out work as a pharmacist or pharmacy technician to have an appropriate indemnity arrangement in respect of liabilities which may be incurred in carrying out work as a pharmacist or pharmacy technician, does not apply during the transitional period where there is a pre-existing indemnity arrangement in relation to that registrant.

30. Where paragraph 29 applies, the Registrar shall request in writing that a registrant provides evidence of the pre-existing indemnity arrangement to the Council within such period as the Registrar may specify.

31. Nothing in paragraph 29 affects the duty of a registrant—

- (a) before the end of the transitional period, to comply with the obligation in the new article 12A(1) as it otherwise has effect on or before the expiry of the pre-existing indemnity arrangement; and
- (b) at or after the end of the transitional period.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes amendments to the framework legislation for the regulation of doctors, dentists and dental care practitioners, opticians, osteopaths, chiropractors, pharmacists and pharmacy technicians, nurses and midwives, and the professions regulated by the Health and Social Work Professions Council. It makes amendments for doctors, dentists and dental care practitioners, 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 Social Work Council. These changes reflect the requirements under Article 4(2)(d) of directive 2011/24/EC (“the directive”) for a Member State of treatment to have in place systems of professional liability cover or similar.

Schedule 1 contains amendments to the legislation regulating health care and associated professions. Part 1 amends the 1983 Act 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 medical practitioner cannot carry out work as medical practitioner unless there is an indemnity arrangement in force in relation to the medical practitioner. The amendments also introduce enabling powers for the 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 the 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).

Part 2 makes similar changes to sections 26A and 36L of the 1984 Act 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 of 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.

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

indemnity arrangements for optometrists and opticians. It also makes consequential amendments to the 2005 Rules.

Parts 4 and 5 make similar amendments to section 37 in both the 1993 and 1994 Acts 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 Council to make rules in connection with the types of indemnity arrangement required.

Part 6 amends the 2001(A) Order, so that it contains new requirements in article 11A, for professions regulated by the Health and Social Work 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 Social Work Professions Council. It also makes consequential amendments to the 2003 Rules.

Part 7 amends the 2001(B) Order, 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 2004 Rules.

Part 8 amends the 2010 Order, 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.

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

Schedule 3 makes transitional arrangements and savings in relation to the principal measures to allow a pre-existing indemnity arrangement to remain in force during the transitional period provided that the pre-existing indemnity arrangement was commenced on or before the 24 October 2013. Where the pre-existing indemnity arrangement ceases to have effect before the end of the transitional period, then a practitioner must comply with the new provisions on indemnity arrangements.