

Health and Social Work Professions Order 2001

CONSOLIDATED TEXT

incorporating revocations and amendments made up to
1st May 2018

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PART I: GENERAL

Citation and commencement

- 1.—(1) This Order may be cited as the Health and Social Work Professions Order 2001.¹
- (2) This article and article 48(4) come into force on the day on which this Order is made and the other provisions of this Order shall come into force on such day as the Secretary of State may specify.
- (3) Different days may be specified under paragraph (2) for different purposes and any day so specified shall be caused to be notified in the London, Edinburgh and Belfast Gazettes published not later than one week before that date.

Interpretation

2. This Order is to be interpreted in accordance with Schedule 3.

PART II: THE COUNCIL AND ITS COMMITTEES

The Health and Care Professions Council and its Committees²

- 3.—(1) The Health and Care Professions Council is referred to in this Order as "the Council".³
- (2) The principal functions of the Council shall be to establish from time to time standards of education, training, conduct and performance for members of the relevant professions and to ensure the maintenance of those standards.
- (3) The Council shall have such other functions as are conferred on it by this Order or as may be provided by the Privy Council by order and see also section 114ZA of the Mental Health Act 1983 (approval of courses for approved mental health professionals).⁴
- (4) The over-arching objective of the Council in exercising its functions is the protection of the public.
- (4A) The pursuit by the Council of its over-arching objective involves the pursuit of the following objectives—
- (a) to protect, promote and maintain the health, safety and well-being of the public;
 - (b) to promote and maintain public confidence in the professions regulated under this Order; and
 - (c) to promote and maintain proper professional standards and conduct for members of those professions.⁵
- (5) In exercising its functions, the Council shall—
- (a) have proper regard for—
 - (i) the interests of persons using or needing the services of registrants in the United Kingdom, and
 - (ii) any differing interests of different categories of registrants;
 - (b) co-operate, in so far as is appropriate and reasonably practicable, with public bodies or other persons concerned with—
 - (i) the employment (whether or not under a contract of service) of registrants,
 - (ii) the education or training of registrants or...⁶ health care professionals,
 - (iii) the regulation of, or the co-ordination of the regulation of, other health or social care professionals,
 - (iv) the regulation of health services,...⁷

- (v) the provision, supervision or management of health or education services;
- (vi) the regulation of social work in England; and
- (vii) the provision, supervision or management of the services of persons engaged in social work in England.⁸

(5ZA) In the application of paragraph (5) to the functions of the Council that relate to persons who are, or wish to become, approved mental health professionals in England, references to registrants are to be read as including a reference to such approved mental health professionals in England as are not registrants.⁹

(5A) In carrying out its duty to co-operate under paragraph (5)(b), the Council shall have regard to any differing considerations relating to practising as a registrant which apply in England, Scotland, Wales or Northern Ireland.

(5AA) The public bodies with which the Council must co-operate for the purposes of paragraph (5)(b) include in particular—

- (a) the Care Council for Wales,
- (b) the Scottish Social Services Council, and
- (c) the Northern Ireland Social Care Council.¹⁰

(5B) In paragraph (5), “other health care professionals” means persons regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 (which relates to the Professional Standards Authority for Health and Social Care)¹¹ other than the Council.¹²

(6) Before making any order under paragraph (3), the Privy Council shall consult the Council.

(7) ...¹³

(7A) The Council shall be constituted as provided for by order of the Privy Council, subject to Part 1 of schedule 1.¹⁴

(8) Part I of Schedule 1 shall have effect with respect to the constitution of the Council and orders of the Privy Council under paragraph (7A).¹⁵

(9) There shall be four committees of the Council, to be known as—

- (a) the Education and Training Committee;
- (b) the Investigating Committee;
- (c) the Conduct and Competence Committee; and
- (d) the Health Committee.

(10) The four committees are referred to in this Order as "the statutory committees".

(11) Each of the statutory committees shall have the functions conferred on it by this Order.

(12) The Council—

- (a) may establish such other committees as it considers appropriate in connection with the discharge of its functions; and
- (b) may, in particular, establish professional advisory committees whose function is to advise the Council and its statutory committees (whether on the request of the Council or otherwise) on matters affecting any relevant profession, and may delegate any of its functions to them, other than any power to make rules.

(13) The Council shall inform and educate registrants, and shall inform the public, about its work.

(14) Before establishing any standards or giving any guidance under this Order the Council shall consult representatives of any group of persons it considers appropriate including, as it sees fit, representatives of—

- (a) registrants or classes of registrant;
- (b) employers of registrants;
- (c) users of the services of registrants; and
- (d) persons providing, assessing or funding education or training for registrants or prospective registrants.

(15) The Council shall publish any standards it establishes and any guidance it gives.

(16) Paragraphs (14) and (15) do not apply to guidance given to an individual which is particular to him.

(17) The Council may—

- (a) make recommendations to the Secretary of State and the Scottish Ministers¹⁶ concerning any profession which in its opinion should be regulated pursuant to section 60(1)(b) of the Health Act 1999; and
- (b) give such guidance as it sees fit, to such persons as seem to it to have an interest in such regulation, on the criteria to be taken into account in determining whether a profession should be so regulated.

(17A) The Council may—

- (a) make recommendations to the Secretary of State concerning social care workers in England who in its opinion should be regulated pursuant to section 60(1)(bc) of the Health Act 1999; and
- (b) give such guidance as it sees fit, to such persons as seem to it to have an interest in such regulation, on the criteria to be taken into account in determining whether social care workers in England should be so regulated.¹⁷

(18) Part II of Schedule 1 shall have effect with respect to the statutory committees.

(19) Nothing in this Order shall require or permit any disclosure of information which is prohibited by or under any other enactment.

PART III: REGISTRATION

Registrar

4.—(1) The Council shall appoint a Registrar who shall hold office for such period and on such terms as the Council may determine.

(2) The Registrar shall have such functions as the Council may direct.

(3) The terms on which the Registrar holds office may, in addition to providing for his remuneration, include provision for the payment of such pensions, allowances or gratuities to or in respect of him, or such contributions or payments towards provision for such pensions, allowances or gratuities, as may be determined by the Council.

(4) Where the terms on which the Registrar holds office include provision for the payment to him of any allowances or expenses, the rate at which those allowances or expenses are paid shall be determined by the Council.

(5) If the Council appoints a deputy or assistant Registrar and that deputy or assistant Registrar is authorised by the Registrar to act for him in any matter, any reference in this Order to "the Registrar" shall include a reference to that deputy or assistant Registrar.

Establishment and maintenance of register

5.—(1) In accordance with the provisions of this Order the Council shall establish and maintain a register of members of the relevant professions.

(2) The Council shall from time to time—

- (a) establish the standards of proficiency necessary to be admitted to the different parts of the register being the standards it considers necessary for safe and effective practice under that part of the register; and
- (b) prescribe the requirements to be met as to the evidence of good health and good character in order to satisfy the Education and Training Committee that an applicant is capable of safe and effective practice under that part of the register.

(3) The Council shall—

- (a) before prescribing the requirements mentioned in paragraph (2)(b), consult...¹⁸ the persons referred to in article 3(14); and
- (b) publish those requirements.

(4) The register shall show, in relation to each registrant, such address and other details as the Council may prescribe.

(5) In any enactment or instrument (past or future and including this Order), except where the context otherwise provides, "registered" in relation to any of the relevant professions means registered in the register maintained under this article by virtue of qualifications in that profession.

Register

6.—(1) The register shall be divided into such parts as the Privy Council may by order determine, on a proposal by the Council or otherwise, and in this Order, references to parts of the register are to the parts so determined.

(2) There shall be one or more designated titles for each part of the register indicative of different qualifications and different kinds of education or training and a registrant is entitled to use whichever of those titles, corresponding to the part of the register in which he is registered, as is appropriate in his case.

(3) Subject to article 7, the Privy Council may by order, on a proposal by the Council or otherwise, make such other provision in connection with the register as it considers appropriate and in particular may provide for—

- (a) the register to include entries indicating the possession of qualifications (whether or not they are approved qualifications) or competence in a particular field or at a particular level of practice, or for the use of a particular category of entry to be discontinued;
- (aa) the register to include an annotation denoting that a registrant is a visiting health or social work¹⁹ professional from a relevant European State;²⁰
- (b) persons to be registered in one or more parts of the register by virtue of having been included in the register maintained under the 1960 Act;
- (c) the recording of additional entries by virtue of their having been in the register maintained under the 1960 Act;

- (d) a specified part of the register to be closed, as from a date specified in the order, so that on or after that date no further person may become registered in that part;
- (e) a specified part of the register to be sub-divided into two or more parts, or for two or more parts to be combined into one;
- (f) persons to be registered in one or more parts of the register by virtue of having been registered in a part or parts of the register which have been closed, sub-divided or combined;
- (g) the recording in Welsh of titles, qualifications and other entries referred to in this paragraph in respect of those members of the professions regulated by this Order whose registered address is in Wales.

(4) The Privy Council, except where acting in accordance with a proposal made by the Council, shall consult the Council before making, varying or revoking any order under this article.

(5) Before making any proposal referred to in paragraph (1) or (3), the Council shall consult representatives of any group of persons who appear likely to be affected by the proposed order.

The register: supplemental provisions

7.—(1) Having consulted the Education and Training Committee the Council shall make rules in connection with registration and the register, and as to the payment of fees.

(2) The rules shall, in particular, make provision as to—

- (a) the form and keeping of the register;
- (b) the procedure for the making, alteration and deletion of entries in the register;
- (c) the form and manner in which applications are to be made and the fee to be charged—
 - (i) for registration, renewal of registration and readmission to the register,
 - (ii) for the making of any additional entry in the register, and
 - (iii) for registration to lapse;
- (d) the documentary and other evidence which is to accompany applications of the kind mentioned in sub-paragraph (c).

(3) Before determining or varying any fees mentioned in paragraph (2)(c) the Council shall consult the Education and Training Committee and such of those persons mentioned in article 3(14) as it considers appropriate.

(4) Rules under this article shall not provide for fees to be charged in respect of a person's registration in exercise of entitlement under article 13A (visiting health or social work²¹ professionals from relevant European States).²²

Access to register etc.

8.—(1) The Council shall make the register available for inspection by members of the public at all reasonable times.

(2) The Council shall publish the register maintained by it in such manner, and at such times, as it considers appropriate.

(3) Any copy of, or extract from, the published register shall be evidence (and in Scotland sufficient evidence) of the matters mentioned in it.

(4) A certificate purporting to be signed by the Registrar, certifying that a person—

- (a) is registered in a specified category;
- (b) is not registered;
- (c) was registered in a specified category at a specified date or during a specified period;
- (d) was not registered in a specified category, or in any category, at a specified date or during a specified period; or
- (e) has never been registered,

shall be evidence (and in Scotland sufficient evidence) of the matters certified.

(5) On application by a registrant who wishes to practise in another relevant European State,²³ the Council shall provide him with such documentary evidence as is required by the relevant provisions of Directive 2005/36/EC of the European Parliament and of the Council of 7th September 2005 on the recognition of professional qualifications as those provisions are amended from time to time.²⁴

Registration

9.—(1) Subject to paragraph (8), a person²⁵ seeking admission to a part of the register must apply to the Council and, subject to the provisions of this Order, and in particular paragraph (4), he shall be entitled to be registered in that part provided that the conditions mentioned in paragraph (2) are satisfied.²⁶

(2) Subject to paragraphs (3) and (3A),²⁷ the conditions are that the application is made in the prescribed form and manner and that—

- (a) the applicant²⁸ satisfies the Education and Training Committee that he holds an approved qualification awarded—
 - (i) within such period, not exceeding five years ending with the date of the application, as may be prescribed, or
 - (ii) before the prescribed period mentioned in head (i), and he has met such requirements as to additional education, training and experience as the Council may specify under article 19(3) and which apply to him;
- (b) the applicant²⁹ satisfies the Education and Training Committee in accordance with the Council's requirements mentioned in article 5(2) that he is capable of safe and effective practice under the part of the register concerned;
- (ba) the Registrar informs the Education and Training Committee that the applicant has satisfied him 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; and³⁰
- (c) the applicant³¹ has paid the prescribed fee.

(3) Where the applicant is already registered in the register and wishes to be registered in an additional part of the register or to have additional entries recorded, paragraph (2)(a) shall apply only to the qualifications on which his application is based.

(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.³²

(4) Where a person who—

- (a) is not registered on the date of coming into force of an order made under article 6(1) which relates to his profession; but

- (b) has been on a register under the 1960 Act in the 5 years immediately preceding the date mentioned in sub-paragraph (a),

applies for admission to the register in the relevant period, the Education and Training Committee shall, if it is satisfied as to his good character, grant the application.

(5) The Education and Training Committee shall give its decision on an application under paragraph (1) as soon as reasonably practicable and in any event within the period specified in the General System Regulations.³³

(6) The Education and Training Committee shall notify the applicant in writing of its decision, and, where that decision is unfavourable to the applicant, of its reasons for reaching that decision and, of the applicant's right of appeal. ...³⁴

(7) Failure to notify the applicant of the Committee's decision within the time specified in paragraph (5) shall be treated as a decision from which the applicant may appeal under article 37.

(8) This article does not apply to a person who seeks registration in exercise of entitlement under article 13A (visiting health or social work³⁵ professionals from relevant European States).³⁶

Renewal of registration and readmission

10.—(1) Subject to paragraph (6), where a person³⁷ is registered and wishes to renew his registration at the end of a prescribed period, he shall make an application for renewal to the Education and Training Committee in accordance with rules made by the Council.

(2) The Education and Training Committee shall grant the application for renewal if—

- (a) the applicant³⁸ meets the conditions set out in article 9(2)(b) and (c);
- (aa) the Registrar informs the Education and Training Committee that the applicant has satisfied him 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;³⁹
- (b) the applicant⁴⁰ satisfies the Education and Training Committee that he has met any prescribed requirements for continuing professional development within the prescribed time; and
- (c) where he has not practised, or has practised for less than the prescribed period, since his first registration or, as the case may be, his latest renewal, the applicant⁴¹ has met such requirements as to additional education, training or experience as the Council may specify under article 19(3) and which apply to him.

(3) Where an applicant does not satisfy the Education and Training Committee that he has met the requirements mentioned in paragraph (2)(b) or (c), the Committee may renew the applicant's registration on condition that he satisfy those requirements within a specified time and if the person fails to comply with the condition, subject to article 11(3) and 37(3), his registration shall lapse and, in accordance with prescribed procedure, his name shall be removed from the register.

(4) Where a person's registration has lapsed, he may apply to the Education and Training Committee to be readmitted and the Committee shall grant the application if—

- (a) the applicant meets the conditions set out in article 9(2)(b) and (c);
- (aa) the Registrar informs the Education and Training Committee that the applicant has satisfied him 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; and⁴²

- (b) he satisfies the Education and Training Committee that he has met such requirements as to additional education, training or experience as the Council may specify under article 19(3) and which apply to him.

(5) Article 9(5) to (7)⁴³ shall apply to applications made under this article.

(6) This article does not apply to a visiting health or social work⁴⁴ professional from a relevant European State.⁴⁵

(7) Paragraphs (2)(aa) and (4)(aa) do not apply in the case of an applicant wishing to renew his registration in that part of the register which relates to the social work profession in England.⁴⁶

Lapse of registration

11.—(1) The Council may make rules providing for the procedure by which and the circumstances in which a registrant's name may be removed from the register on his own application or after the expiry of a specified period.

(2) Where a person's name is removed in accordance with this article or article 10(3), his registration shall be referred to as lapsed.

(3) Any rules made under paragraph (1) shall provide that a person's registration shall not lapse under this article or under article 10(3)—

- (a) where the person concerned is the subject of an allegation, or is treated under article 22(6) as if he were the subject of an allegation, or is the subject of any investigations or proceedings under Part V or VI of this Order, on the grounds only that he has not paid the prescribed fee or has failed to apply for renewal in the prescribed form or within the prescribed time; or
- (b) if the person concerned is the subject of a suspension order, a conditions of practice order, an interim suspension order or an interim conditions of practice order.

Indemnity arrangements⁴⁷

11A.—(1) Each practising registrant must have in force in relation to that registrant an indemnity arrangement which provides appropriate cover for practising as a member of the relevant profession in question.

(2) For the purposes of this article, 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 article, “appropriate cover”, in relation to practice as a registered member of a 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 an 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 for practising as a member of the relevant profession in question;
- (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 for practising as a member of the relevant profession in question; and

- (c) by or in respect of a registrant for the purposes of determining whether, at any time, there is in force in relation to the registrant an indemnity arrangement which provides appropriate cover for practising as a member of the relevant profession in question.

(5) Rules made under paragraph (4) may require the 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 the registrant an indemnity arrangement which provides appropriate cover for practising as a member of the relevant profession in question.

(7) 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 for practising as a member of the relevant profession in question provided under an indemnity arrangement by an employer.

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

- (a) the Education and Training Committee may remove that person from the register; or
- (b) the person's fitness to practise may be treated for the purposes of article 22(1)(a)(i) as being impaired by reason of misconduct, and the Council may accordingly refer the matter to, persons appointed by it under article 22(5)(b)(i)(where rules under article 23 provide) or to a Practice Committee under article 22(5)(b)(ii).

(9) 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)—

- (a) the Education and Training Committee may refuse the applicant's application for admission (or readmission) to the register; or
- (b) in the case of restoration to the register, the Registrar may refuse to register the applicant in the register in accordance with article 33(7).

(10) If a registrant breaches rules under paragraph (4)(b) or (c), that person's fitness to practise may be treated for the purposes of article 22(1)(a)(i) as being impaired by reason of misconduct, and the Council may accordingly refer the matter to persons appointed by it under article 22(5)(b)(i)(where rules under article 23 provide) or to a Practice Committee under article 22(5)(b)(ii).

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

(12) 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).

Approved qualifications

12.—(1) For the purposes of this Order a person is to be regarded as having an approved qualification if—

- (a) he has a qualification awarded in the United Kingdom which has been approved by the Council as attesting to the standard of proficiency it requires for admission to the part of the register in respect of which he is applying;

- (b) he is an exempt person and has a right to practise a relevant profession in the United Kingdom by virtue of Part 3 of the General System Regulations (having, in particular, successfully completed any adaptation period, or passed any aptitude test, that he may be required to undertake pursuant to that Part of those regulations);^{48...49}
 - (ba) he is an exempt person and has a right to practise in the United Kingdom by virtue of holding a European professional card in accordance with regulations 56 to 61 of the General Systems Regulations;⁵⁰
 - (c) he has, elsewhere than in the United Kingdom, undergone training in one of the relevant professions and either—
 - (i) holds a qualification which the Council is satisfied attests to a standard of proficiency comparable to that attested to by a qualification referred to in sub-paragraph (a), or
 - (ii) the Council is not so satisfied, but the applicant has undergone in the United Kingdom or elsewhere such additional training or experience as satisfies the Council, following any test of competence as it may require him to take, that he has the requisite standard of proficiency for admission to the part of the register in respect of which he is applying; and, in either case,
 - (iii) (except where he is an exempt person)⁵¹ he satisfies prescribed requirements as to knowledge of English.
 - (d) where he is applying for admission to the register as a social worker, he has, in Wales, Scotland or Northern Ireland, undergone training in social work and—
 - (i) the training is recognised by the Council as meeting the standard which it requires for admission to the part of the register relating to the social work profession in England, or
 - (ii) the training is not so recognised but he has undergone, whether in England or elsewhere, such additional training or professional experience as satisfies the Council that he has the requisite standard of proficiency for admission to the part of the register relating to the social work profession in England.⁵²
- (1A) In considering whether an exempt person to whom paragraph (1)(c) applies is to be regarded as having an approved qualification, the Council shall take into account—
- (a) if the person holds a qualification in a relevant profession which—
 - (i) was granted otherwise than in relevant European State, but
 - (ii) has been accepted by a relevant European State, other than the United Kingdom, as qualifying him to practise that profession in that State,
 the acceptance of that qualification; and
 - (b) all other qualifications, knowledge or experience, wherever acquired, which are relevant to the determination of the application.⁵³
- (2) The Education and Training Committee shall determine procedures to—
- (a) assess whether a qualification awarded outside the United Kingdom is of a comparable standard to a qualification mentioned in paragraph (1)(a) and it shall, where it sees fit, keep a list of qualifications which are of a comparable standard which it shall publish and keep under review;...⁵⁴
 - (b) assess other training or professional experience acquired outside the United Kingdom and to compare it, together with qualifications mentioned in sub-paragraph (a) where

appropriate, with the standard of proficiency required for admission to any part of the register; and

- (c) assess training or professional experience acquired in Wales, Scotland or Northern Ireland in social work and to compare it, together with qualifications mentioned in sub-paragraph (a) where appropriate, with the standard of proficiency required for admission to the part of the register relating to the social work profession in England.⁵⁵

Transitional provisions relating to admission to the register

13.—(1) This article applies to a person who is not a person specified in paragraph (1A)⁵⁶ or (1B)⁵⁷—

- (a) who applies for admission to the register under article 9(1);
- (b) who is not registered on the date of coming into force of an order made under article 6(1) which relates to the profession in respect of which he is applying to be registered;
- (c) who has never been registered in respect of that profession—
 - (i) under the 1960 Act or this Order,
 - (ii) in the case of an operating department practitioner, in the AODP register, or
 - (iii) in the case of a practitioner psychologist, in the BPS register or the AEP register, and
- (d) who applies for admission to the register in respect of that profession within the period of two years, or in the case of practitioner psychologists three years,⁵⁸ beginning with the date mentioned in sub-paragraph (b) (“the relevant period”).⁵⁹

(1A) This paragraph applies to a person who applies for admission to the register as a hearing aid dispenser on or after 1st April 2010.⁶⁰

(1B) This paragraph applies to a person who applies for admission to the register as a social worker on or after 1st August 2012.⁶¹

(2) A person to whom paragraph (1)⁶² applies shall be treated as satisfying the requirements of article 9(2)(a) if he satisfies the Education and Training Committee, following any test of competence as it may require him to take—

- (a) that for a period of at least three out of the five years immediately preceding the date mentioned in paragraph (1)(a),⁶³ or its equivalent on a part-time basis, he has been wholly or mainly engaged in the lawful, safe and effective practice of the profession in respect of which he wishes to be registered; or
- (b) that he has not so practised but he has undergone in the United Kingdom or elsewhere such additional training and experience as satisfies the Council that he has the requisite standard of proficiency for admission to the part of the register in respect of which he is applying.

(3) The Council shall, having consulted such of those persons mentioned in article 3(14) as it considers appropriate, establish from time to time the criteria to which the Education and Training Committee shall have regard in reaching a decision under paragraph (2) and it shall publish those criteria.

Visiting health or social work professionals from relevant European States⁶⁴

13A.—(1) This article applies to an exempt person (“V”) who is lawfully established, in a relevant European State other than the United Kingdom (“State A”), as a member of one of the relevant professions (“the established profession”).

(2) Paragraph (3) applies if—

- (a) V has the benefit of regulation 12 of the General Systems Regulations in connection with the provision by V of relevant services in the United Kingdom on a temporary and occasional

basis (V having complied with any requirements imposed under Part 2 of those Regulations in connection with the provision by V of relevant services); or

- (b) V has a right to practise in the United Kingdom on a temporary and occasional basis by virtue of holding a European professional card in accordance with regulations 51 to 55 of those Regulations.⁶⁵

(3) V is entitled to be registered in the part of the register relating to the established profession; and the Registrar shall give effect to the entitlement.

(4) If V is entitled under paragraph (3) to be registered, but is not registered in the part of the register relating to the established profession, V shall be treated as being registered in that part.

(5) V's entitlement under paragraph (3) ceases if V ceases, whether as a result of the operation of regulation 24⁶⁶ of the General Systems Regulations or otherwise, to have the benefit of regulation 12⁶⁷ of those Regulations in connection with the provision by V of relevant services in the United Kingdom on a temporary and occasional basis.

(6) If—

- (a) V's entitlement under paragraph (3) ceases by reason of the operation of paragraph (5), and
- (b) V is registered,

the Registrar may remove V's name from the register.

(7) Paragraph (8) applies if—

- (a) V's establishment in State A is subject to a condition relating to V's practice of the established profession,
- (b) V's name is registered in the part of the register relating to the established profession, and
- (c) for any of the purposes of this Order it falls to be decided whether V's fitness to practise is or may be impaired on the ground of misconduct.

(8) The matters that may be counted as misconduct include (in particular) any act or omission by V during the course of the provision by V of relevant services in the United Kingdom on a temporary and occasional basis that is, or would be if the condition applied in relation to practice of the established profession outside State A, a breach of the condition.

(9) In paragraphs (7) and (8) "condition" includes limitation.

(10) Paragraphs (1) to (6) are not to be taken to prejudice the application, in relation to registrants, of any other provision of this Order under which a registrant's name may be removed from the register or under which a registrant's registration may be suspended.

(11) In this article "relevant services" means services provided in pursuit of the established profession.⁶⁸

Requirement for social workers in England to be registered

13B.—(1) A person may not practise as a social worker in England unless the person is registered in the part of the register relating to the social work profession in England.

(2) Paragraph (1) does not apply to a person who—

- (a) is registered as a social worker in a register kept by the Care Council for Wales, the Scottish Social Services Council or the Northern Ireland Social Care Council, and
- (b) is practising in England as a social worker on a temporary basis.⁶⁹

PART IV: EDUCATION AND TRAINING

Education and Training Committee

14. The Education and Training Committee shall advise the Council (whether on the request of the Council or otherwise) on the performance of the Council's functions in relation to—

- (a) the establishing of standards of proficiency under article 5 and its other functions under that article;
- (b) the establishing of standards and requirements in respect of education and training or continuing professional development, as the case may be, under articles 15(1) and 19(4) and (6);
- (ba) the setting of criteria under Article 15B;⁷⁰
- (c) the giving of guidance under article 21(2).

Education and Training

15.—(1) The Council shall from time to time establish—

- (a) the standards of education and training necessary to achieve the standards of proficiency it has established under article 5(2); and
- (b) the requirements to be satisfied for admission to, and continued participation in, such education and training which may include requirements as to good health and good character.

(2) The standards mentioned in paragraph (1)(a) shall include such matters as the outcomes to be achieved by that education and training.

(3) Before establishing the standards or requirements referred to in paragraph (1) the Council shall consult such of those persons mentioned in article 3(14) as it considers appropriate and the Education and Training Committee.

(4) The Education and Training Committee shall—

- (a) ensure that universities and other bodies in the United Kingdom concerned with such education and training are notified of the standards and requirements established under paragraph (1); and
- (b) take appropriate steps to satisfy itself that those standards and requirements are met.

(5) In performing the function mentioned in paragraph (4)(b) the Committee may in particular, approve, or arrange with others to approve—

- (a) a course of education or training which the Committee is satisfied confers or would confer on persons completing it successfully the standards of proficiency mentioned in paragraph (1);
- (b) qualifications which are granted following success in an examination, or some other appropriate assessment, taken as part of an approved course of education or training;
- (c) institutions which the Committee considers to be properly organised and equipped for conducting the whole or part of an approved course of education or training;
- (d) such tests of competence or knowledge of English as it may require.

(6) In connection with paragraph (5), the Committee may approve or arrange with others to approve a course of education or training run outside the United Kingdom by an institution to which paragraph 5(c) applies.

(7) The Council shall from time to time publish a statement of the criteria which will be taken into account in deciding whether to give approval under paragraph (5).

(8) The Council shall maintain and publish a list of the courses of education or training, qualifications and institutions—

- (a) which are for the time being approved under this Order; or
- (b) which have been approved under this Order but which are no longer so approved, together with a record of the periods in respect of which they were approved.

(9) In this article a reference to education or training includes any course of education or training or test referred to in paragraph (5).

Exercise of function for approving courses for approved mental health professionals

15A.—(1) The function under section 114ZA(1) of the Mental Health Act 1983 (approval of courses for approved mental health professionals in England) is exercisable by the Education and Training Committee.

(2) In relation to AMHP courses run outside the United Kingdom, section 114ZA(1) of that Act applies only in relation to courses run by institutions which are approved in accordance with article 15B(3).

(3) In this article and articles 15B to 18, “AMHP course” means a course of the kind referred to in section 114ZA(1) of the Mental Health Act 1983.⁷¹

Criteria for approving courses for approved mental health professionals

15B.—(1) The Council must set the criteria to be applied in exercising the function under section 114ZA(1) of the Mental Health Act 1983.

(2) The Education and Training Committee must—

- (a) ensure that universities and other bodies in the United Kingdom concerned with the provision of AMHP courses are notified of the criteria set under paragraph (1); and
- (b) take appropriate steps to satisfy itself that the AMHP courses provided by such bodies meet those criteria.

(3) In performing the function under paragraph (2)(b), the Committee may, in particular, approve or arrange with others to approve institutions which the Committee considers to be properly organised and equipped for conducting AMHP courses.

(4) The Council must from time to time publish a statement of the criteria set under paragraph (1).

(5) An AMHP course is to be treated for the purposes of articles 16 to 18 as a relevant course of education or training.⁷²

Visitors

16.—(1) The Council may, at the request of the Education and Training Committee or otherwise, appoint persons (“visitors”) to visit any place at which or institution by which or under whose direction—

- (a) any relevant course of education or training is, or is proposed to be, given;
- (b) any examination or other assessment is, or is proposed to be, held in connection with any such course;
- (c) any test of competence is, or is proposed to be, conducted in connection with any such course or for any other purposes connected with this Order.

(2) For the purposes of this article and article 18, the words "any test of competence" includes an assessment to establish the level of a person's knowledge of written or spoken English.

(3) In this article, "relevant course of education or training" means any course of education or training which forms, or is intended to form, part of an approved course of education or training or any course which a registrant may be required to undergo after registration in accordance with rules made by the Council.

(4) No visitor may exercise his functions under this Order in relation to—

- (a) any place at which he regularly gives instruction in any subject; or
- (b) any institution with which he has a significant connection.

(5) A person shall not be prevented from being a visitor merely because he is—

- (a) a member of the Council or any of its committees; or
- (b) a Screener,

but no person may be a visitor if he is employed by the Council.

(6) Visitors shall be selected with due regard to the profession with which the education and training they are to report on is concerned and at least one of the visitors shall be registered in that part of the register which relates to that profession; but that does not apply to AMHP courses.⁷³

(7) Where a visitor visits any place or institution in the exercise of his functions under this article, he shall report to the Committee—

- (a) on the nature and quality of the instruction given, or to be given, and the facilities provided or to be provided, at that place or by that institution; and
- (b) on such other matters (if any) as it requires.

(8) Requirements of the kind mentioned in paragraph (7)(b) may be imposed by the Committee—

- (a) generally in relation to all visits made to a specified kind of place or institution or in respect of a specified type of course; or
- (b) specifically in relation to a particular visit.

(9) Where a visitor reports to the Committee in accordance with paragraph (7), the Committee shall on receipt of the report—

- (a) send a copy of it to the institution concerned; and
- (b) notify that institution of the period within which it may make observations on the report.

(10) The period specified by the Committee in a notice given under sub-paragraph (b) of paragraph (9) shall be not less than one month beginning with the date on which a copy of the report is sent to the institution concerned under sub-paragraph (a) of paragraph (9).

(11) The Committee shall not take any steps in the light of any report made under paragraph (7) before the end of the specified period mentioned in paragraph (10).

(12) The Council shall publish such reports together with, on the request of the institution concerned, the response of that institution to the report.

(13) The Council may make such provision in respect of visitors as it may determine—

- (a) for the payment of fees and allowances, including the payment of allowances to employers of visitors for the purposes of enabling visitors to perform functions under this article;
- (b) for the reimbursement of such expenses as visitors may reasonably have incurred in the course of carrying out their functions under this article.

Information to be given by institutions

17.—(1) This article applies to any institution in the United Kingdom by which, or under whose direction, whether inside or outside the United Kingdom—

- (a) any relevant course of education or training is, or is proposed to be, given; or
- (b) any test of competence is, or is proposed to be, conducted in connection with any such course or for any other purpose connected with this Order.

(2) In paragraph (1) "relevant course of education or training" has the same meaning as in article 16(3).

(3) Whenever required to do so by the Education and Training Committee or the Council, any such institution shall give to the Committee such information and assistance as the Committee may reasonably require in connection with the exercise of its functions under this Order.

(3A) The reference in paragraph (3) to the functions of the Committee under this Order includes a reference to the function under section 114ZA(1) of the Mental Health Act 1983 (approval of courses for approved mental health professionals) in so far as that function is exercisable by the Committee.⁷⁴

(4) Where an institution refuses any reasonable request for information made by the Committee or the Council under this article, the Committee with the approval of the Council may in accordance with article 18 refuse to approve, or withdraw approval from, as the case may be, any education, training, qualification or institution to which the information relates.

(5) In this article a reference to education or training includes any course of education or training or test referred to in article 15(5).

Refusal or withdrawal of approval of courses, qualifications and institutions

18.—(1) Where as a result of any visitor's report or other information acquired by the Education and Training Committee or the Council and taking account of the observations received from the institution under article 16(9), the Committee is of the opinion that the standards established under article 15(1) are not, or will not be, met by particular education or training or that an institution is not observing the requirements referred to in article 15(1) it may refuse to approve, or withdraw approval from, as the case may be, any education, training, qualification or institution to which that opinion relates.

(1A) Where as a result of any visitor's report or other information acquired by the Committee or the Council, and taking account of the observations received from the institution under article 16(9), the Committee is of the opinion that an AMHP course does not meet the criteria set under article 15B(1), it may refuse to approve, or withdraw approval from, the course.⁷⁵

(2) In this article a reference to education or training includes any course of education or training or test referred to in article 15(5).

(3) In making any decision under paragraph (1) or (1A)⁷⁶ to refuse or to withdraw approval the Committee shall act in accordance with this article.

(4) The Committee shall—

- (a) notify the institution concerned, setting out its reasons; and
- (b) inform the institution of the period within which it may make observations on the matters raised, which shall be not less than one month beginning with the date on which the reasons are sent to the institution under sub-paragraph (a).

(5) The Committee shall take no further steps before the period specified in sub-paragraph (b) of paragraph (4) has expired.

(6) If, taking account of the matters referred to in paragraph (1) or, as the case may be, (1A)⁷⁷ and any observations submitted by the institution under paragraph (4), the Committee decides that it is appropriate to refuse or withdraw approval under paragraph (1) or, as the case may be, (1A)⁷⁸ it shall notify the institution accordingly.

(7) A decision under paragraph (6) shall have effect from the date of the decision or from such later date as may be specified in the decision.

(8) Where approval is withdrawn under this article, the Committee shall use its best endeavours to secure that any person who is undertaking the education or training concerned or is studying for the qualification concerned or is studying at the institution concerned at the time when recognition is withdrawn is given the opportunity to follow approved education or training or to study for an approved qualification or at an approved institution.

(9) The withdrawal under this article of approval from any education or training, qualification or institution shall not affect the entitlement of any person to be registered on the basis of an award to him, before the date on which the decision withdrawing approval had effect, of—

- (a) the qualification concerned; or
- (b) any qualification awarded—
 - (i) in connection with any education or training, or
 - (ii) by an institution
 from which approval has been withdrawn.

Post-registration training

19.—(1) The Council may make rules requiring registrants to undertake such continuing professional development as it shall specify in standards.

(2) The rules may, in particular, make provision with respect to registrants who fail to comply with any requirements of the rules, including making provision for their registration to cease to have effect.

(2A) Paragraphs (1) and (2), so far as relating to a person (“P”)—

- (a) who is registered in the part of the register relating to a relevant profession (“the established profession”); and
- (b) whose entry in that part of the register includes an annotation denoting that P is a visiting health or social work⁷⁹ professional from a relevant European State,

have effect subject to, respectively, paragraphs (2B) and (2C).

(2B) Rules made under paragraph (1)—

- (a) may not impose requirements on P in connection with P’s pursuit of the established profession if P is required to undertake, in P’s home State, continuing professional development in relation to the established profession; and
- (b) where they impose requirements on P in connection with P’s pursuit of the established profession—
 - (i) shall take account of the fact that P is fully qualified to pursue the established profession in P’s home State, and
 - (ii) shall specify that continuing professional development which P is required to undertake by the requirements may be undertaken outside the United Kingdom.

(2C) Where rules make provision such as is mentioned in paragraph (2), the rules must secure that any sanction imposed in relation to P by or under that provision is appropriate and proportionate in view of P's continued lawful establishment as a member of the established profession in P's home State.

(2D) In paragraphs (2B) and (2C) "home State", in relation to P, means the relevant European State in which P is lawfully established as a member of the established profession.⁸⁰

(3) The Council may by rules require persons who have not practised or who have not practised for or during a prescribed period, to undertake such education or training or to gain such experience as it shall specify in standards.

(4) If the Council makes rules under paragraph (1) or (3), it shall establish the standards to be met in relation to—

- (a) continuing professional development; or
- (b) the education or training mentioned in paragraph (3),

and article 15(3) to (8) and articles 16 to 18 of this Order shall apply in respect of those standards as if they were standards established under article 15(1)(a).

(5) In the articles mentioned in paragraph (4), references to "education and training" shall, for the purposes of that paragraph, be treated as being to education, training or experience.

(6) In respect of additional qualifications which may be recorded on the register the Council may establish standards of education and training and article 15(3) to (8) and articles 16 to 18 shall apply in respect of those standards as if they were standards established under article 15(1)(a).

Wales

20. The National Assembly for Wales may create or designate a body with which the Council may enter into any such arrangements as are referred to in article 15(5) of this Order in order to perform its function under article 15(4)(b) in respect of the standards established under article 15(1) or 19(4) or (6); but the reference to the Council's function under article 15(4)(b) does not include a reference to that function so far as relating to social work in England.⁸¹

PART V: FITNESS TO PRACTISE

Council's functions in respect of fitness to practise, ethics and other matters

21.—(1) The Council shall—

- (a) establish and keep under review the standards of conduct, performance and ethics expected of registrants and prospective registrants (including registrants or prospective registrants carrying out the functions of an approved mental health professional)⁸² and give them such guidance on these matters as it sees fit; and
- (b) establish and keep under review effective arrangements to protect the public from persons whose fitness to practise is impaired.

(2) The Council may also from time to time give guidance to registrants, employers and such other persons as it thinks appropriate in respect of standards for the education and training, supervision and performance of persons who provide services in connection with those provided by registrants.

(3) The Council shall—

- (a) before establishing any... arrangements mentioned in paragraph (1), consult... the persons mentioned in article 3(14);⁸³ and
- (b) before giving guidance under paragraph (1) or (2) consult the Education and Training Committee in addition to the persons mentioned in article 3(14).

Allegations

22.—(1) This article applies where any allegation is made against a registrant to the effect that—

- (a) his fitness to practise is impaired by reason of—
 - (i) misconduct,
 - (ii) lack of competence,
 - (iii) a conviction or caution in the United Kingdom for a criminal offence, or a conviction elsewhere for an offence which, if committed in England and Wales, would constitute a criminal offence,
 - (iv) his physical or mental health, or
 - (v) a determination by a body in the United Kingdom responsible under any enactment for the regulation of a health or social care profession...⁸⁴ to the effect that his fitness to practise is impaired, or a determination by a licensing body elsewhere to the same effect;
 - ...⁸⁵
- (b) an entry in the register relating to him has been fraudulently procured or incorrectly made.

(2) For the purposes of this article references to a conviction include a conviction by a Court Martial.

(3) This article is not prevented from applying because the allegation is based on a matter alleged to have occurred outside the United Kingdom or at a time when the person against whom the allegation is made was not registered.

(4) Rules may provide that where a Practice Committee finds that a person has failed to comply with the standards mentioned in article 21(1), such failure shall not be taken of itself to establish that his fitness to practise is impaired, but may be taken into account in any proceedings under this Order.

(5) When an allegation is made to the Council or any of its committees, as soon as reasonably practicable after receipt of the allegation in the form required by the Council, the Council shall refer it—

- (a) where it is an allegation of the kind mentioned in paragraph (1)(b), to the Investigating Committee; and
- (b) in any other case—
 - (i) to persons appointed by the Council in accordance with any rules made under article 23, or
 - (ii) to a Practice Committee.

(6) If an allegation is not made under paragraph (1) but it appears to the Council that there should be an investigation into the fitness to practise of a registrant or into his entry in the register it may refer the matter in accordance with paragraph (5) and this Order shall apply as if it were an allegation made under paragraph (1).

(7) Hearings and preliminary meetings of Practice Committees at which the person concerned is entitled to be present or to be represented are to be held in—

- (a) the United Kingdom country in which the registered address of the person concerned is situated; or
- (b) if he is not registered and resides in the United Kingdom, in the country in which he resides; and
- (c) in any other case, in England.

(8) While the registration of a registrant is suspended by virtue of a suspension order or an interim suspension order he shall be treated as not being registered notwithstanding that his name still appears in the register but this does not prevent action being taken in respect of such a person as appropriate under articles 22 to 32 of this Order.

(9) The Council shall publish as soon as reasonably practicable particulars of any orders and decisions made by a Practice Committee under article 26(7) or (12), 29(5), 30(1), (2), (4), (6), (7) or (8) or 33 and of its reasons for them and of any decision given on appeal.

(10) The Council may disclose to any person any information relating to a person's fitness to practise which it considers it to be in the public interest to disclose.

(11) In this Part "the person concerned" means the person against whom an allegation has been made.

Screeners

23.—(1) The Council may by rules provide for the appointment of persons, to be known as Screeners, to whom allegations may be referred in accordance with this Order or rules made under it.

(2) A person shall not be prevented from being a Screener merely because he is—

- (a) a member of the Council or any of its committees, other than a Practice Committee; or
- (b) a visitor.

(3) No person may be a Screener if he is—

- (a) a member of a Practice Committee;
- (b) a legal, medical or registrant assessor; or
- (c) employed by the Council.

(4) No person may act as a Screener in respect of a particular case if he has been involved in that case in any other capacity.

Screeners: supplementary provisions

24.—(1) Any rules made under article 23 shall contain the provisions mentioned in paragraphs (2) and (3).

(2) The rules made under article 23(1) shall provide that—

- (a) any matter referred to the Screeners shall be considered by a panel of at least two Screeners;
- (b) the panel shall include at least one lay person and one registrant selected with due regard to the professional field of the person concerned and to the matter under consideration;
- (c) the number of registrants on any panel may not exceed the number of lay persons.

(3) Any such rules shall give Screeners the functions—

- (a) of considering the allegation and establishing whether, in their opinion, power is given by this Order to deal with it if it proves to be well founded;
- (b) if in their opinion such power is given, of referring the matter together with a report of the result of their consideration to such Practice Committee as they see fit;
- (c) if in their opinion such power is not given, of closing the case, provided that—
 - (i) if there are two Screeners, the lay person agrees, or
 - (ii) if there are more than two Screeners, it is the decision of the majority,
 and if head (i) or (ii), as the case may be, is not satisfied, of referring the matter in accordance with sub-paragraph (b).
- (d) where requested to do so by any Practice Committee, of mediating in any case with the aim of dealing with the allegation without it being necessary for the case to reach the stage at which the Health Committee or Conduct and Competence Committee, as the case may be, would arrange a hearing in accordance with article 32(2)(f);
- (e) in the event that mediation fails, of referring the matter back to the Practice Committee which referred it to the Screeners.

(4) The Council may make such provision in respect of Screeners as it may determine—

- (a) for the payment of fees and allowances, including the payment of allowances to employers of Screeners for the purpose of enabling Screeners to perform their functions under this Order; and
- (b) for the reimbursement of such expenses as the Screeners may reasonably have incurred in the course of carrying out their functions under this Order.

(5) If the Screeners decide that power is not given by this Order to deal with the allegation the Registrar shall inform the person making the allegation giving reasons.

Council's power to require disclosure of information

25.—(1) For the purpose of assisting the Council or any of its Practice Committees in carrying out functions in respect of fitness to practise, a person authorised by the Council⁸⁶ may require any person (other than the person concerned) who in his opinion is able to supply information or produce any document which appears relevant to the discharge of any such function, to supply such information or produce such a document.

(2) As soon as is reasonably practicable after a decision has been made under article 22(5) or (6) to refer an allegation or other matter to a Practice Committee, the Council shall require, from the person concerned, details of—

- (a) any person—
 - (i) by whom he is employed to provide services in, or in relation to, the profession in respect of which he is registered, or
 - (ii) with whom he has an arrangement to provide such services; and
- (b) any body by which he is authorised to practise, in the United Kingdom or elsewhere, a health or social care profession which is regulated under any enactment.

(3) Nothing in this article shall require or permit any disclosure of information which is prohibited by or under any other enactment.

(4) But where information is held in a form in which the prohibition operates because the information is capable of identifying an individual, the person referred to in paragraph (1) may, in exercising his functions under that paragraph, require that the information be put into a form which is not capable of identifying that individual.

(5) Paragraph (1) shall not apply in relation to the supplying of information or the production of any document which a person could not be compelled to supply or produce in civil proceedings in any court to which an appeal would lie from a decision of a Practice Committee with regard to the person concerned⁸⁷.

(6) ...⁸⁸

The Investigating Committee

26.—(1) The Investigating Committee shall investigate any allegation which is referred to it in accordance with article 22 or 24.

(2) Where an allegation is referred to the Investigating Committee, it shall—

- (a) notify without delay the person concerned of the allegation and invite him to submit written representations within a prescribed period;
- (b) where it sees fit, notify the person making the allegation of the representations mentioned in sub-paragraph (a) and invite him to deal within a specified period with any points raised by the Committee in respect of those representations;
- (c) take such other steps as are reasonably practicable to obtain as much information as possible about the case;
- (d) consider, in the light of the information which it has been able to obtain and any representations or other observations made to it under sub-paragraph (a) or (b), whether in its opinion—
 - (i) in respect of an allegation of the kind mentioned in article 22(1)(a), there is a case to answer, and
 - (ii) in respect of an allegation of the kind mentioned in article 22(1)(b), whether the entry concerned has been fraudulently procured or incorrectly made.

(3) The Council shall by rules make provision as to the procedure to be followed by the Investigating Committee in any investigation carried out by it under this article.

(4) In the case of an allegation of the kind mentioned in article 22(1)(b) the rules shall, in particular, make similar provision to that made by virtue of article 32(2)(b), (f), (g), (h), (i), (j), (m), (n), (o) and (p) and may provide for the Registrar to be made a party to the proceedings.

(5) When the Investigating Committee reaches a decision under paragraph (2) as to whether—

- (a) there is a case to answer; or
- (b) an entry in the register has been fraudulently procured or incorrectly made,

it shall notify in writing both the person concerned and the person making the allegation, if any, of its decision, giving its reasons.

(6) Where the Investigating Committee concludes that there is a case to answer under paragraph (2)(d)(i), it shall—

- (a) undertake mediation; or
- (b) refer the case—
 - (i) to Screeners for them to undertake mediation,
 - (ii) to the Health Committee in the case of an allegation of a kind mentioned in article 22(1)(a)(iv), or
 - (iii) to the Conduct and Competence Committee, in the case of any other allegation.

(6A) In deciding whether to act under paragraph (6)(a) or (b)(i), the Investigating Committee (or any panel by which a function under that paragraph is exercisable as mentioned in paragraph 18(2) of Schedule 1) must have regard to the over-arching objective of the Council under article 3(4)(read with article 3(4A)).⁸⁹

(7) In the case of an allegation of a kind mentioned in article 22(1)(b), if the Investigating Committee is satisfied that an entry in the register has been fraudulently procured or incorrectly made, it may make an order that the Registrar remove or amend the entry and shall notify the person concerned of his right of appeal under article 38.

(8) If the Investigating Committee concludes that there is no case to answer or that the relevant entry was not fraudulently procured or incorrectly made—

- (a) where requested to do so by the person concerned, it shall make a declaration to that effect, giving its reasons; and
- (b) in any other case and with the consent of the person concerned, may make such a declaration.

(9) For the purposes of paragraph (8), the publication of the decision mentioned in paragraph (5) together with the reasons for it may constitute such a declaration.

(10) No order made under paragraph (7) shall have effect—

- (a) before the expiry of the period within which an appeal against the order may be made; or
- (b) where an appeal against the order has been made, before the appeal is withdrawn or otherwise finally disposed of.

(11) The Investigating Committee may make an interim order in accordance with article 31 at the same time as making an order under paragraph (7) or at any time before referring a case to the Health Committee or the Conduct and Competence Committee under paragraph (6).

(12) The Investigating Committee may review an order made under paragraph (7) if new evidence relevant to the order becomes available after the order has been made and may revoke that order if it considers that it should not have been made.

(13) Where the Investigating Committee makes an order under paragraph (7), or decides not to review such an order under paragraph (12), the person concerned may appeal to the appropriate Court and the provisions of article 38 shall apply to the appeal.

(14) Any such appeal must be brought before the end of the period of 28 days beginning with the date on which notice of the order or decision appealed against is served on the person concerned.

(15) On an appeal under this article, the Council shall be the respondent.

(16) An entry which has been restored to the register on an application for readmission or restoration being granted may be treated for the purposes of this article as having been fraudulently procured or incorrectly made if any previous entry from which the restored entry is derived was fraudulently procured or incorrectly made.

The Conduct and Competence Committee

27. The Conduct and Competence Committee shall—

- (a) ...⁹⁰
- (b) consider—
 - (i) any allegation referred to it by the Council, Screeners, the Investigating Committee or the Health Committee, and
 - (ii) any application for restoration referred to it by the Registrar.

The Health Committee

28. The Health Committee shall consider—

- (a) any allegation referred to it by the Council, Screeners, the Investigating Committee or the Conduct and Competence Committee; and
- (b) any application for restoration referred to it by the Registrar.

Orders of the Health Committee and the Conduct and Competence Committee

29.—(1) If, having considered an allegation, the Health Committee or the Conduct and Competence Committee, as the case may be, concludes that it is not well founded—

- (a) where requested to do so by the person concerned, it shall make a declaration to that effect giving its reasons; and
- (b) in any other case and with the consent of the person concerned, may make such a declaration.

(2) For the purposes of paragraph (1) the publication of the decision mentioned in article 32(2)(k) and the reasons for it may constitute such a declaration.

(3) If, having considered an allegation, the Health Committee or the Conduct and Competence Committee, as the case may be, concludes that it is well founded, it shall proceed in accordance with the remaining provisions of this article.

(4) The Committee may—

- (a) refer the matter to Screeners for mediation or itself undertake mediation, or
- (b) decide that it is not appropriate to take any further action.

(5) Where a case does not fall within paragraph (4), the Committee shall—

- (a) make an order directing the Registrar to strike the person concerned off the register (a "striking-off order");
- (b) make an order directing the Registrar to suspend the registration of the person concerned for a specified period which shall not exceed one year (a "suspension order");

- (c) make an order imposing conditions with which the person concerned must comply for a specified period which shall not exceed three years (a "conditions of practice order"); or
- (d) caution the person concerned and make an order directing the Registrar to annotate the register accordingly for a specified period which shall be not less than one year and not more than five years (a "caution order").

(6) A striking-off order may not be made in respect of an allegation of the kind mentioned in article 22(1)(a)(ii) or (iv) unless the person concerned has been continuously suspended, or subject to a conditions of practice order, for a period of no less than two years immediately preceding the date of the decision of the Committee to make such an order.

(7) The Committee may specify in an order made under paragraph (5) a period within which an application to vary, replace or revoke the order may not be made, which—

- (a) in the case of a striking-off order, except where new evidence relevant to the order becomes available, shall be expressed in terms of article 33(2);
- (b) in the case of a suspension order shall not exceed 10 months; and
- (c) in the case of a conditions of practice order shall not exceed two years.

(8) The Committee shall, when it makes, varies, replaces or revokes an order under this article or article 30 or when an order it has made ceases to have effect, give the Registrar such directions as are appropriate as to annotation of the register to record the decision made or, as the case may be, the expiry of the order.

(9) The person concerned may appeal to the appropriate court against an order made under paragraph (5) and article 38 shall apply to the appeal.

(10) Any such appeal must be brought before the end of the period of 28 days beginning with the date on which notice of the order or decision appealed against is served on the person concerned.

(11) No order mentioned in paragraph (9) shall have effect—

- (a) before the expiry of the period within which an appeal against the order may be made; or
- (b) where an appeal against the order has been made, before the appeal is withdrawn or otherwise finally disposed of.

Review of orders by the Health Committee and the Conduct and Competence Committee

30.—(1) Before the expiry of an order made under article 29(5)(b) or (c) by the Conduct and Competence Committee or the Health Committee, the Committee which made the order or, if the matter has been referred to the other Committee, that Committee, shall review the order and may, subject to paragraph (5)—

- (a) with effect from the date on which the order would, but for this provision, have expired, extend, or further extend the period for which the order has effect;
- (b) with effect from the expiry of the order, make an order which it could have made at the time it made the order being reviewed;
- (c) with effect from the expiry of a suspension order, make a conditions of practice order with which the practitioner must comply if he resumes the practice of his registered profession after the end of his period of suspension.

(2) Subject to paragraph (1), on the application of the person concerned or otherwise, at any time an order made by the Conduct and Competence Committee or the Health Committee under article 29(5)(b) to (d) is in force, the Committee which made the order or, if the matter has been referred to

the other Committee, that Committee, may review the order and may take any of the steps referred to in paragraph (4).

(3) Paragraphs (1) and (2) apply to an order made on a review under paragraph (1) or (2) as they do to an order made under article 29(5)(b) to (d).

(4) The steps mentioned in paragraph (2) are for the Committee to—

- (a) confirm the order;
- (b) extend, or further extend, the period for which the order has effect;
- (c) reduce the period for which the order has effect, but in the case of a caution order not so that it has effect for less than one year beginning with the date on which the order was made under article 29(5)(d);
- (d) replace the order with any order which it could have made at the time it made the order being reviewed and the replacement order shall have effect for the remainder of the term of the order it replaces;
- (e) subject to paragraph (6), revoke the order or revoke any condition imposed by the order;
- (f) vary any condition imposed by the order.

(5) The Committee may not extend a conditions of practice order by more than three years at a time or a suspension order by more than one year at a time.

(6) The Committee may make the revocation of a suspension order subject to the applicant's satisfying such requirements as to additional education or training and experience as the Council has specified under article 19(3) and which apply to him.

(7) Where new evidence relevant to a striking-off order becomes available after the making of the order, the Committee which made the order or, where appropriate, the Committee mentioned in article 33(3)(b) may review it and article 33(4) to (8) shall apply as if it were an application for restoration made under that article.

(8) A striking-off order, conditions of practice order, suspension order or caution order which is in force by virtue of a decision made on appeal to the appropriate court may be reviewed in accordance with paragraph (2) or (7), as the case may be, by the Committee which made the order appealed from and any of the steps mentioned in paragraph (4) may be taken.

(9) Before exercising its powers under paragraph (1), (2), (4), (6), (7) or (8), a Practice Committee shall give the person concerned the opportunity to appear before it and to argue his case in accordance with rules made by the Council which shall include the matters referred to in article 32(2)(b), (g), (i), (j), (k), (m), (n) and (o).

(10) The person concerned may appeal to the appropriate court against an order or decision made under paragraph (1), (2), (4), (6), (7) or (8).

(11) Any such appeal must be brought before the end of the period of 28 days beginning with the date on which notice of the order or decision appealed against is served on the person concerned.

(12) On an appeal under this article the Council shall be the respondent.

Interim Orders by a Practice Committee

31.—(1) This article applies where—

- (a) an allegation against a registered professional has been referred to the Investigating Committee, Conduct and Competence Committee or to the Health Committee but—
 - (i) that Committee has not reached a decision on the matter; or

- (ii) in a case to which article 26(6) applies, where the Investigating Committee refers the matter to another Practice Committee;
 - (b) the Investigating Committee makes an order under article 26(7), or
 - (c) the Conduct and Competence Committee or the Health Committee makes an order under article 29(5)(a) to (c).
- (2) Subject to paragraph (4), if the Committee is satisfied that it is necessary for the protection of members of the public or is otherwise in the public interest, or is in the interests of the person concerned, for the registration of that person to be suspended or to be made subject to conditions, it may—
- (a) make an order directing the Registrar to suspend the person's registration (an "interim suspension order"); or
 - (b) make an order imposing conditions with which the person must comply (an "interim conditions of practice order"),
- during such period not exceeding eighteen months as may be specified in the order.
- (3) In a case coming within paragraph (1)(b) or (c), such an order may be made at the same time as an order made under article 26(7) or 29(5)(a) to (c).
- (4) The Investigating Committee shall not make an order in any case after it has referred the allegation in question to another Practice Committee.
- (5) Subject to paragraphs (6), (7), (9) and (12) the order mentioned in paragraph (2) shall cease to have effect—
- (a) in a case falling within paragraph (1)(a) when the Committee reaches a decision in respect of the allegation in question; and
 - (b) in a case falling within paragraph (1)(b) or (c)—
 - (i) if there is no appeal against the order mentioned in that paragraph, when the period for appealing expires, or
 - (ii) if there is an appeal against that order, when the appeal is withdrawn or otherwise finally disposed of.
- (6) The Committee which made the order or, if the matter has been referred to another Practice Committee, that Committee, shall, in a case coming within paragraph (1)(a), review an order made under paragraph (2)—
- (a) within the period of six months beginning on the date on which the order was made, and shall thereafter, for so long as the order continues in force, further review it before the end of the period of three months beginning on the date of the decision of the immediately preceding review;
 - (b) where new evidence relevant to the order has become available after the making of the order.
- (7) Where an interim suspension order or an interim conditions of practice order has been made under this article (including this paragraph) the Practice Committee which made the order or, where the case has been referred to another Practice Committee, that Committee, may, subject to paragraph (15)—
- (a) revoke the order or revoke any condition imposed by the order;
 - (b) confirm the order;
 - (c) vary any condition imposed by the order;

- (d) if satisfied that to do so is necessary for the protection of members of the public or is otherwise in the public interest, or is in the interests of the person concerned, replace an interim conditions of practice order with an interim suspension order having effect for the remainder of the term of the former;
- (e) if satisfied that the public interest, including the protection of members of the public, or the interests of the person concerned would be adequately served by an interim conditions of practice order, replace an interim suspension order with an interim conditions of practice order having effect for the remainder of the term of the former.

(8) The Council may apply to the court for an order made by a Practice Committee under paragraph (2) or (7) to be extended, and may apply again for further extensions.

(9) On such an application the court may extend (or further extend) for up to 12 months the period for which the order has effect.

(10) In this article, references to an interim suspension order or interim conditions of practice order include such an order as so extended.

(11) For the purposes of paragraph (6) the first review after the court's extension of an order made by a Practice Committee or after a replacement order made by a Practice Committee under paragraph (7)(d) or (e) shall take place—

- (a) if the order (or the order which has been replaced) had not been reviewed at all under paragraph (6), within the period of six months beginning on the date on which the court ordered the extension or on which a replacement order under paragraph (7)(d) or (e) was made; and
- (b) if it had been reviewed under the provision, within the period of three months beginning on that date.

(12) Where an order has effect under paragraph (2), (7) or (9), the court may, on an application being made by the person concerned—

- (a) in the case of an interim suspension order, terminate the suspension;
- (b) in the case of an interim conditions of practice order, revoke or vary any condition imposed by the order;
- (c) in either case, substitute for the period specified in the order (or in the order extending it) some other period which could have been specified in the order when it was made (or in the order extending it),

and the decision of the court under any application under this paragraph shall be final.

(13) In this article "the court" has the same meaning as "the appropriate court" in article 38.

(14) The Committee shall notify the person concerned giving its reasons where it makes an order under paragraph (2) or for any decision under paragraph (7) and shall notify him of his right to apply to the court.

(15) No order under paragraph (2) or (7)(c) to (e), or, in a case where paragraph (5)(b) applies, under paragraph (7)(b), shall be made by any Practice Committee in respect of any person unless he has been afforded an opportunity of appearing before the Committee and being heard on the question whether such an order should be made in his case.

(16) At any such hearing, the person concerned shall be entitled to be represented whether by a legally qualified person or otherwise.

(17) The Committee shall when it makes, varies, replaces or revokes an order under this article or when an order it has made ceases to have effect, give the Registrar such directions as are appropriate

as to annotation of the register to record the decision made or, as the case may be, the expiry of the order.

Investigation of allegations: procedural rules

32.—(1) The Council shall make rules as to the procedure to be followed by the Health Committee and the Conduct and Competence Committee in considering any allegation and before making an order under article 29(5).

(2) The rules shall, in particular, make provision—

- (a) empowering each Committee to refer to the other any allegation which it considers would be better dealt with by that other Committee;
- (b) empowering each Committee, before it holds any hearing to which sub-paragraph (f) applies, where it considers that it would assist it in performing its functions, to hold a preliminary meeting in private attended by the parties and their representatives and any other person it thinks appropriate;
- (c) requiring the person concerned to be given notice of the allegation without delay;
- (d) giving the person concerned an opportunity to submit written representations within a prescribed period;
- (e) for the Committee, where it sees fit, to notify the person making the allegation of the representations provided under sub-paragraph (d) and to invite him to deal within a prescribed period with any points raised by the Committee in respect of those representations;
- (f) giving the person concerned an opportunity to put his case at a hearing if—
 - (i) before the end of the prescribed period, he asks for a hearing; or
 - (ii) the Committee considers that a hearing is desirable;
- (g) entitling the person concerned to be represented whether by a legally qualified person or otherwise at any such hearing;
- (h) where an allegation is referred by the Council, Screeners or the Investigating Committee to the Health Committee or the Conduct and Competence Committee, for the Council to give notice of that referral to specified persons who shall include the Secretary of State, the Scottish Ministers, the National Assembly for Wales and the Department of Health, Social Services and Public Safety in Northern Ireland, and, where they are known, to any person referred to in article 25 paragraph (2)(a) or (b);
- (i) giving any person, other than the person concerned, who, in the opinion of the relevant Committee, taking account of any criteria included in the rules, has an interest in proceedings before it, the opportunity to submit written representations;
- (j) requiring a hearing before a Committee to be held in public except in so far as may be provided by the rules;
- (k) requiring the Committee to notify the person concerned of its decision, its reasons for reaching that decision and of his right of appeal;
- (l) requiring the person by whom the allegation was made to be notified by the Committee of its decision and of its reasons for reaching that decision;
- (m) empowering the Committee to require persons other than the person concerned to attend and give evidence or to produce documents;
- (n) about the admissibility of evidence;

- (o) enabling the Committee to administer oaths;
- (p) where the person concerned has been convicted of a criminal offence, for the conviction to be proved by the production of a certified copy of the certificate of conviction, or, in Scotland, an extract conviction, relating to the offence and for the findings of fact upon which the conviction is based to be admissible as proof of those facts.

(3) Each stage in proceedings under Part V and article 37 shall be dealt with expeditiously and the Committee concerned may give directions as to the conduct of the case and for the consequences of failure to comply with such directions (which may include the making of an order or refusal of an application if the failure to comply was without reasonable excuse).

(4) The Council may provide in the rules for the Chair⁹¹ of the Committee to hold the meeting referred to in paragraph (2)(b) or to give the directions mentioned in paragraph (3) and, subject to the agreement of the parties to his acting on behalf of the Committee, to take such action as the Committee would be competent to take at such a meeting.

(5) In this article "parties" means the Council and the person concerned.

Restoration to the register of persons who have been struck off

33.—(1) Where a person who has been struck off the register by virtue of an order made by a Practice Committee or the court wishes to be restored to the register, he shall make an application for restoration to the Registrar.

(2) Subject to article 30(7), no such application may be made—

- (a) before the end of the period of five years beginning with the date on which the order under article 29, 30 or 38 took effect; or
- (b) in any period of twelve months in which an application for restoration to the register has already been made by the person who has been struck off.

(3) Any application for restoration shall be referred by the Registrar for determination to—

- (a) the Committee which made the striking-off order; or
- (b) where any previous applications have been made in connection with the same striking-off order, the Committee which last gave a decision on such an application.

(4) Before making any decision on the application the Committee shall give the applicant an opportunity to appear before it and to argue his case in accordance with rules made by the Council which shall include the matters referred to in article 32(2)(b), (g), (i), (j), (k), (m), (n) and (o).

(5) The Committee shall not grant an application for restoration unless it is satisfied, on such evidence as it may require, that the applicant not only satisfies the requirements of article 9(2)(a) and (b) but, having regard in particular to the circumstances which led to the making of the order under article 29, 30 or 38, is also a fit and proper person to practise the relevant profession.

(6) The Committee may make the granting of an application subject to the applicant satisfying such requirements as to additional education or training and experience as the Council has specified under article 19(3) and which apply to him.

(7) On granting an application for restoration, the Committee—

- (a) shall direct the Registrar to register the applicant in the relevant part of the register on his satisfying the Registrar as mentioned in article 10(4)(aa),⁹² on his satisfying any requirements imposed under paragraph (6) and on payment of the prescribed fee; and
- (b) may make a conditions of practice order with respect to him.

(8) The provisions of article 29 shall have effect in relation to a conditions of practice order made under paragraph (7) as they have effect in relation to a conditions of practice order made under that article and article 30 shall apply as if the order made under paragraph (7) were an order made under article 29.

(9) If, while a striking-off order is in force, a second or subsequent application for restoration to the register, made by the person who has been struck off, is unsuccessful, the Committee which determined that application may direct that that person's right to make any further such applications shall be suspended indefinitely.

(10) A person in respect of whom a direction is made under paragraph (9) may, after the expiration of three years from the date on which the direction was made, apply to the Registrar for that direction to be reviewed and, thereafter, may make further applications for review but no such application may be made before the expiration of three years from the date of the most recent review decision.

(11) The Registrar shall refer an application made under paragraph (10) to the Committee which made the direction under paragraph (9).

(12) A person whose application under paragraph (10) or whose application for restoration is refused or made subject to his satisfying requirements under paragraph (6) may appeal to the appropriate Court and article 38 shall apply to that appeal.

(13) The appeal must be brought before the end of the period of 28 days beginning with the date on which notice of the decision rejecting the application, or granting it but imposing conditions under paragraph (6), is served on the applicant.

Legal assessors

34.—(1) The Council shall appoint legal assessors.

(2) Legal assessors shall have the general function of giving advice to—

- (a) Screeners;
- (b) the statutory committees;
- (c) the Registrar; or
- (d) the Council,

on questions of law arising in connection with any matter which any of those persons is considering under article 9 or 10, Part V or Part VI.

(3) They may at the request of the person mentioned in paragraph (2) assist in the drafting of any decision required by this Order to be issued under any of the provisions mentioned in that paragraph.

(4) They shall have such other functions as may be conferred on them by rules made by the Council.

(5) To be qualified for appointment as a legal assessor, a person must—

- (a) have a 10 year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990); or
- (b) be an advocate or solicitor in Scotland of at least 10 years' standing; or
- (c) be a member of the Bar of Northern Ireland of at least 10 years' standing.

(6) No person shall be a legal assessor if he is—

- (a) a member of the Council;
- (b) a member of a statutory committee;
- (c) a Screener, visitor or medical or registrant assessor; or

(d) employed by the Council.

(7) The Council may make such provision in respect of legal assessors as it may determine—

- (a) for the payment of fees and allowances, including the payment of allowances to employers of legal assessors for the purposes of enabling legal assessors to perform functions under this article;
- (b) for the reimbursement of such expenses as the legal assessors may reasonably have incurred in the course of carrying out their functions under this Order.

Medical assessors

35.—(1) The Council may appoint registered medical practitioners to be medical assessors.

(2) They shall have the general function of giving advice to—

- (a) Screeners;
- (b) the statutory committees;
- (c) the Registrar; or
- (d) the Council,

on matters within their professional competence in connection with any matter which any of those persons is considering.

(3) They shall also have such other functions as may be conferred on them by rules made by the Council.

(4) No person shall be a medical assessor if he is—

- (a) a member of the Council;
- (b) a member of a statutory committee;
- (c) a Screener, visitor or legal or registrant assessor; or
- (d) employed by the Council.

(5) The Council may make such provision in respect of medical assessors as it may determine—

- (a) for the payment of fees and allowances, including the payment of allowances to employers of medical assessors for the purposes of enabling medical assessors to perform functions under this article;
- (b) for the reimbursement of such expenses as the medical assessors may reasonably have incurred in the course of carrying out their functions under this Order.

Registrant assessors

36.—(1) The Council may appoint registered professionals as registrant assessors.

(2) They shall have the general function of giving advice to—

- (a) the Council;
- (b) the committees of the Council;
- (c) Screeners; or
- (d) the Registrar,

on matters of professional practice arising in connection with any matter which any of those persons is considering.

(3) The assessors shall also have such other functions as may be conferred on them by rules made by the Council.

(4) No person shall be a registrant assessor if he is—

- (a) a member of the Council;
- (b) a member of a statutory committee;
- (c) a Screener, visitor or legal or medical assessor; or
- (d) employed by the Council.

(5) The Council may make such provision in respect of registrant assessors as it may determine—

- (a) for the payment of fees and allowances, including the payment of allowances to employers of registrant assessors for the purposes of enabling registrant assessors to perform functions under this article;
- (b) for the reimbursement of such expenses as the registrant assessors may reasonably have incurred in the course of carrying out their functions under this Order.

PART VI: APPEALS

Appeals against decisions of the Education and Training Committee

37.—(1) Where the Education and Training Committee under this Order—

- (a) refuses an application for registration, readmission or renewal or for the inclusion of an additional entry;
- (aa) refuses to register a person under article 13A (visiting health or social work⁹³ professionals from relevant European States);⁹⁴
- (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;⁹⁵
- (b) in determining an application under article 9 or 10, imposes additional conditions which must be satisfied before the applicant may be admitted to, readmitted to or retained on the register;
- (c) removes the name of a registrant from the register on the ground that he has breached a condition in respect of continuing professional development or such additional, education, training or experience as is mentioned in article 19(3), subject to which his registration has effect; or
- (d) fails, within the terms of article 9(7), to issue a decision,

the person aggrieved may appeal to the Council within the prescribed period.

(1A) Paragraph (1)(ab) does not apply where the removal is in consequence of a refusal of an application for renewal (including an application for readmission or restoration where registration has lapsed).⁹⁶

(1B) Paragraph (1)(ab) does not apply in the case of a person who has been admitted to that part of the register which relates to the social work profession in England.

(2) No appeal lies to the Council where the person aggrieved has been refused registration solely because he has failed to pay the prescribed fee for registration or has failed to apply in the prescribed form and manner in accordance with article 9 or 10.

(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 or 11A is invalid.⁹⁷

(3) No decision removing a registrant from the register against which an appeal to the Council may be made under paragraph (1) shall have effect before—

- (a) the expiry of the period within which such an appeal may be made; or
- (b) if an appeal is made, the appeal is withdrawn or otherwise finally disposed of.

(4) Any appeal shall be subject to such rules as the Council shall make for the purpose of regulating appeals under this article.

(5) The rules shall in particular provide—

- (a) for the quorum of the Council considering such an appeal and for the membership of any panel considering such an appeal on the Council's behalf;⁹⁸
- (b) that the members considering the appeal are to include registrants and lay members and that the number of members who are registrants may exceed the number of lay members but may not exceed them by more than one;

- (c) for a panel considering an appeal to consist of no fewer than three members who are to be selected with due regard to the matter under consideration and to include—
 - (i) one registrant registered in the same part of the register as the one in which the person concerned is, or is applying to be, registered;
 - (ii) one lay member; and
 - (iii) where the health of the person concerned is in issue, one registered medical practitioner;
 - (d) for the person presiding to be a Council member;
 - (e) that no one who has been involved in any other capacity in the case to be considered is to be a member of the panel;
 - (f) for the decision to be made by a majority vote of the persons present;
 - (g) in the event of a tie, for the Chair⁹⁹ to have an additional casting vote which he shall exercise in the favour of the person concerned;
 - (h) for the Education and Training Committee to be made a party to the proceedings;
 - (i) for similar provision to be made to that in article 32(2)(b), (f), (g), (i), (j), (k), (m), (n) and (o).
- (5A) For the purposes of paragraph (5), “lay member” means a person who is not and never has been—
- (a) a registrant or registered under the 1960 Act or registered as a social worker in a register kept by the General Social Care Council, the Care Council for Wales, the Scottish Social Services Council or the Northern Ireland Social Care Council;¹⁰⁰
 - (b) a member of the Association of Operating Department Practitioners, the Association of Educational Psychologists or the British Psychological Society; or
 - (c) a registered medical practitioner.¹⁰¹
- (6) Article 32(3) shall apply to appeals under this article as if a reference to the Committee concerned were to the Council.
- (7) Article 25, with the exception of paragraph (2), shall apply to appeals under this article as if a reference to a Practice Committee were to the Council.
- (8) A hearing provided for by the rules made under paragraph (4)(other than a hearing on an appeal relating to a social worker in England) ¹⁰² is to be held—
- (a) in the United Kingdom country in which the registered address of the person concerned is situated;
 - (b) if he is not registered and resides in the United Kingdom, in the country in which he resides; or
 - (c) in any other case, in England.
- (8A) A hearing provided for by the rules made under paragraph (4) on an appeal relating to a social worker in England is to be held in England.¹⁰³
- (9) Having considered the appeal under this article, the Council may—
- (a) dismiss the appeal;
 - (b) allow the appeal and quash the decision appealed against;
 - (c) substitute for the decision appealed against any other decision that the Education and Training Committee could have made; or

- (d) remit the case to the Education and Training Committee to be disposed of in accordance with its directions.

(10) The person concerned may appeal to a county court or, in Scotland, to the sheriff in whose sheriffdom the person's address in the register is (or if he were registered would be) situated¹⁰⁴ against an unfavourable decision made under paragraph (9)(a), (c) or (d) and article 38 shall apply to that appeal.

(11) Subject to paragraph 12, the Council shall publish as soon as reasonably practicable a decision of the Council made under this article together with the reasons for it.

(12) If the decision is favourable to the person concerned, the Council is not required to publish it unless the person concerned so requests but it may do so with the consent of the person concerned.

Appeals

38.—(1) An appeal from—

- (a) any order or decision of the Health Committee or the Conduct and Competence Committee other than an interim order made under article 31, shall lie to the appropriate court; and
- (b) a decision of the Council mentioned in paragraph (1A)¹⁰⁵ or of the Investigating Committee under article 26(7) or (12) or of the Registrar under article 33(7)(a) as to whether he is satisfied as mentioned in article 10(4)(aa)¹⁰⁶ shall lie to a county court or, in Scotland, to the sheriff in whose sheriffdom the person's address in the register is (or if he were registered would be) situated.¹⁰⁷

(1ZA) An appeal from a decision referred to in paragraph (1)(b) relating to social workers in England shall lie only to the county court.¹⁰⁸

(1A) The decisions referred to in paragraph (1)(b) are—

- (a) any decision of the Council under article 37;
- (b) a decision of the Council under Part 3 of the General Systems Regulations requiring an exempt person to complete an adaptation period, or pass an aptitude test, in connection with becoming entitled by virtue of that Part of those Regulations to have access to, and to pursue, a relevant profession in the United Kingdom;¹⁰⁹
- (c) a decision of the Council under regulation 67 of the General Systems Regulations to send an alert about a person;
- (d) a decision of the Council to revoke, or not to issue, extend or vary a European professional card under Part 4 of the General Systems Regulations;
- (e) a failure by the Council to make a decision in relation to a European professional card within the time limit under regulation 51(1) or 56(1) of the General Systems Regulations.¹¹⁰

(2) In any appeal under this article the Council shall be the respondent.

(3) The Court or sheriff may—

- (a) dismiss the appeal;
- (b) allow the appeal and quash the decision appealed against or, in the case of an appeal from a decision falling within paragraph (1A)(c), direct that the alert be withdrawn or amended;¹¹¹
- (c) substitute for the decision appealed against, or the failure to make a decision falling within paragraph (1A)(e),¹¹² any other decision the Practice Committee concerned or the Council, as the case may be, could have made; or

- (d) remit the case to the Practice Committee concerned or Council, as the case may be, to be disposed of in accordance with the directions of the court or sheriff,

and may make such order as to costs (or, in Scotland, expenses) as it, or he, as the case may be, thinks fit.

(4) In this article (subject to paragraph (5))¹¹³ "the appropriate court" means—

- (a) in the case of a person whose registered address is (or, if he were registered, would be) in Scotland, the Court of Session;
- (b) in the case of a person whose registered address is (or, if he were registered, would be) in Northern Ireland, the High Court of Justice in Northern Ireland; and
- (c) in any other case, the High Court of Justice in England and Wales.

(5) In this article, in the case of an appeal relating to a social worker in England, "the appropriate court" means the High Court of Justice in England and Wales.¹¹⁴

PART VII OFFENCES

Offences

39.—(1) Subject to paragraph (2), a person commits an offence if with intent to deceive (whether expressly or by implication)—

- (a) he falsely represents himself to be registered in the register, or a particular part of it or to be the subject of any entry in the register;
- (b) he uses a title referred to in article 6(2) to which he is not entitled;
- (c) he falsely represents himself to possess qualifications in a relevant profession.

(1A) A person who is registered as a social worker in a register kept by the Care Council for Wales, the Scottish Social Services Council or the Northern Ireland Social Care Council is to be regarded for the purposes of paragraph (1)(b) as entitled to use the title of “social worker”.¹¹⁵

(2) If a person has been practising a relevant profession to which the title mentioned in paragraph (1)(b) relates before the coming into force of an order under article 6(1) which relates to that profession, he will not be guilty of an offence under paragraph (1)(b)—

- (a) during the relevant period mentioned in article 13(1)(d),¹¹⁶ or
- (b) if he applies during the relevant period for admission to the register, until his application and any appeal from a decision on that application has been finally disposed of.

(3) A person commits an offence if—

- (a) with intent that any person shall be deceived (whether expressly or by implication) he causes or permits another person to make any representation about himself which, if made by himself with intent to deceive, would be an offence under paragraph (1); or
- (b) with intent to deceive, he makes with regard to another person any representation which—
 - (i) is false to his own knowledge, and
 - (ii) if made by the other person with that intent would be an offence by him under paragraph (1).

(4) A person who fraudulently procures, or tries to procure, the making, amendment, removal or restoration of an entry in the register, is guilty of an offence.

(5) A person who, without reasonable excuse, fails to comply with any requirement imposed by—

- (a) the Council, or
- (b) a Practice Committee

under article 25(1) or (2) or rules made by virtue of article 32(2)(m) or under any corresponding rule made by virtue of article 26, 33 or 37 is guilty of an offence.

(6) A person guilty of an offence under this article shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Offence: hearing aid dispensers¹¹⁷

39A.—(1) Subject to paragraph (2), a person who is not a registered hearing aid dispenser must not perform the functions of a dispenser of hearing aids.

(2) Paragraph (1) does not apply where the person performing those functions is—

- (a) registered in the Specialist Register as having a specialty in otolaryngology, oto-rhino laryngology or ENT surgery; or

- (b) performing them as part of a course of education or training approved by the Council under article 15(5)(a) for persons wishing to become registered hearing aid dispensers or as part of an examination so approved.

(3) Any person who contravenes paragraph (1) is liable on summary conviction to a fine of an amount not exceeding level 5 on the standard scale.

(4) In this article—

“registered hearing aid dispenser” means a person who is registered in the register as a hearing aid dispenser;

“the Specialist Register” means the register of that name kept by the General Medical Council.

PART VIII: MISCELLANEOUS

Further provisions

40.—(1) The Privy Council may make provision by order with regard to the functions of legal assessors and in particular provision may be made—

- (a) requiring legal assessors, when advising the Council or any of its committees, to do so in the presence of the parties or their representatives or, where advice is given in private, requiring the parties to be notified of the advice tendered by the legal assessors;
- (b) requiring the parties to be notified in any case where the legal assessor's advice is not accepted.

(2) Paragraph (1)(a) and (b) shall not apply to advice given by a legal assessor in respect of the drafting of a decision mentioned in article 34(3).

Rules and orders

41.—(1) No rules under this Order, apart from rules made solely under paragraph 17 of Schedule 1,¹¹⁸ shall come into force until approved by order of the Privy Council.

(2) Any rules made by the Council and any order of the Privy Council made under this Order may make different provision with respect to different cases or classes of case.

(3) Before making any rules under this Order, apart from rules made solely under paragraph 17 of Schedule 1,¹¹⁹ the Council shall consult representatives of any group of persons who appear likely to be affected by the proposed rules and these may include such persons as appear to it to be representative of—

- (a) registrants or classes of registrant;
- (b) employers of registrants;
- (c) users of the services of registrants; or
- (d) persons providing, assessing or funding education and training for registrants and prospective registrants.

Exercise of powers by the Privy Council

42.—(1) Where the approval of the Privy Council is required by this Order in respect of the making of any rules by the Council, it shall be given by an order made by the Privy Council.

(2) Any power of the Privy Council under this Order to make an order shall be exercisable by statutory instrument.

(2A) For the purposes of section 1 of the Statutory Instruments Act 1946 (definition of “Statutory Instrument”), any power to make an order under this Order is to be taken to be conferred by an Act of Parliament.¹²⁰

(3) A statutory instrument that contains an order of the Privy Council, other than an order made under article 48(2) or under paragraph 19, 20 or 21 of Schedule 2, shall—

- (a) where paragraph (3A) applies, be subject to annulment in pursuance of a resolution of either House of Parliament or a resolution of the Scottish Parliament; or
- (b) where paragraph (3A) does not apply, be subject to annulment in pursuance of a resolution of either House of Parliament.

(3A) This paragraph applies to a statutory instrument containing—

- (a) an order under article 6(3) that includes measures relating to the regulation of operating department practitioners or practitioner psychologists; or
- (b) an order approving rules made under article 5(2)(b), 7(2)(c) or (d), 9(2), 10, 19, 26(3), 30(9), 32, 33(4) or 37(4) that includes measures relating to the regulation of operating department practitioners or practitioner psychologists.¹²¹

(4) For the purpose of exercising any powers conferred by this Order the quorum of the Privy Council shall be two.

(5) Any act of the Privy Council under this Order shall be sufficiently signified by an instrument signed by the Clerk of the Privy Council.

(6) Any document purporting to be—

- (a) an instrument made by the Privy Council under this Order; and
- (b) signed by the Clerk of the Privy Council, shall be evidence (and in Scotland sufficient evidence) of the fact that the instrument was so made and of its terms.

Default powers of the Privy Council

43.—(1) If it appears to the Privy Council that the Council has failed to perform any functions which, in the opinion of the Privy Council, should have been performed, the Privy Council may notify the Council of its opinion and require the Council to make representations to it.

(2) The Privy Council may, having considered the representations of the Council, give such directions (if any) to the Council as it considers appropriate.

(3) If the Council fails to comply with any directions given under this article, the Privy Council may give effect to the direction.

(4) Subject to paragraph (5), for the purpose of giving effect to a direction under paragraph (3), the Privy Council may—

- (a) exercise any power of the Council or do any act or other thing authorised to be done by the Council; and
- (b) do, of its own motion, any act or other thing which it is otherwise authorised to do under this Order at the instigation of the Council.

(5) The Privy Council shall not exercise the power in paragraph (4) to make, amend, remove or restore an entry in the register in respect of an individual, nor to refuse to do so.

(6) The powers under paragraphs (1) and (2) may be exercised by a person authorised or designated by the Privy Council for that purpose.

Annual reports, statistical reports and strategic plans

44.—(1) The Council shall publish, by such date in each year as the Privy Council shall specify—

- (a) a report on the exercise of its functions which includes a description of the arrangements that the Council has put in place to ensure that it adheres to good practice in relation to equality and diversity (and for these purposes “equality” and “diversity” have the meanings given in section 8(2) of the Equality Act 2006 (equality and diversity));
- (b) a statistical report which indicates the efficiency and effectiveness of, and which includes a description of, the arrangements which the Council has put in place under article 21(1)(b) to protect members of the public from registrants whose fitness to practise is impaired, together with the Council’s observations on the report; and

- (c) a strategic plan for the Council in respect of such number of years as the Council shall determine.

(2) The Council shall submit copies of the reports and the plan published under paragraph (1) to the Privy Council and the Privy Council shall lay copies of the reports and the plan before each House of Parliament and before the Scottish Parliament.¹²²

Arrangements with other persons who maintain registers of health or social care workers

44A.—(1) The Council may make arrangements with any relevant person for the Council to provide administrative, technical or advisory services to that person.

(2) A relevant person is a person or group of persons (whether inside or outside the United Kingdom) who maintain—

- (a) a register of members of a profession engaged in the provision of health care,
- (b) a register of persons engaged in, but who are not members of a profession engaged in, the provision of health care,
- (c) a register of members of the social work profession, or
- (d) a register of persons engaged in social care work.¹²³

Finances of the Council

45.—(1) The Council may charge such fees in connection with the exercise of its functions as it may, with the approval of the Privy Council, determine.

(2) Subject to this article, the expenses of the Council are to be met out of fees received by the Council and other sums paid to it in connection with the exercise of its functions.

(3) The Secretary of State or an appropriate authority may make grants or loans to the Council towards expenses incurred, or to be incurred by it—

- (a) in connection with the process of the implementation of this Order, or
- (b) for such other purposes in connection with the professions regulated by this Order as may be approved by the Secretary of State or the appropriate authority and agreed with the Council.

(3A) The Secretary of State may make grants or loans to the Council towards expenses incurred, or to be incurred by it, in connection with the exercise of its functions in relation to persons who are, or wish to become, approved mental health professionals in England.¹²⁴

(4) In this paragraph, "appropriate authority" means the National Assembly for Wales, the Scottish Ministers or the Department of Health, Social Services and Public Safety in Northern Ireland.

Accounts of the Council

46.—(1) The Council shall—

- (a) keep accounts in such form as the Privy Council may determine;
- (b) prepare annual accounts in respect of each financial year, in such form as the Privy Council may determine.

(2) The annual accounts shall be audited by persons the Council appoints.

(3) The Council shall ensure that the persons it appoints are eligible for appointment as statutory auditors under Part 42 of the Companies Act 2006 (statutory auditors).¹²⁵

(4) As soon as is reasonably practicable after the end of the financial year to which the annual accounts relate, the Council shall—

- (a) cause them to be published together with any report on them made by the auditors; and
- (b) send a copy of the annual accounts and of any such report to the Privy Council, the Comptroller and Auditor General and the Auditor General for Scotland.¹²⁶

(5) The Comptroller and Auditor General shall examine, certify and report on the annual accounts.

(6) For the purposes of his examination, the Comptroller and Auditor General may inspect the accounts of the Council and any records relating to them.

(7) The Privy Council shall lay before each House of Parliament and the Scottish Parliament¹²⁷ a copy of the annual accounts certified by the Comptroller and Auditor General, any report of the auditors and the report of the Comptroller and Auditor General prepared under paragraph (5).

(8) In this article, "financial year" means—

- (a) the period beginning with the date on which the Council is established and ending with the next 31st March following that date, and
- (b) each successive period of 12 months ending with 31st March.

Inquiry by the Privy Council

47.—(1) The Privy Council may cause an inquiry to be held into any matter connected with the exercise by the Council of its functions.

(2) Before an inquiry is begun, the Privy Council may direct that it shall be held in public.

(3) Where no direction has been given, the person holding the inquiry may if he thinks fit hold it, or any part of it, in private.

(4) For the purpose of any such inquiry (but subject to paragraph (5)) the person appointed to hold the inquiry—

- (a) may by summons require any person to attend, at a time and place stated in the summons, to give evidence or to produce any documents in his custody or under his control which relate to any matter in question at the inquiry; and
- (b) may take evidence on oath, and for that purpose administer oaths, or may, instead of administering an oath, require the person examined to make a solemn affirmation.

(5) Nothing in this article requires a person, in obedience to a summons under the article, to attend to give evidence or to produce any documents unless the necessary expenses of his attendance are paid or tendered to him.

(6) Any person who refuses or deliberately fails to attend in obedience to a summons under this article, or to give evidence, or who deliberately alters, suppresses, conceals, destroys, or refuses to produce any book or other document which he is required or is liable to be required to produce for the purposes of this article, shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(7) Where the Privy Council causes an inquiry to be held under this article—

- (a) the costs or expenses¹²⁸ incurred by it in relation to the inquiry (including such reasonable sum as it may determine for the services of any officer engaged in the inquiry) shall be paid by such party to the inquiry as it may direct; and
- (b) it may cause the amount of the costs or expenses¹²⁹ so incurred to be certified, and any amount so certified and directed to be paid by any person shall be recoverable from that

person by the Privy Council in Scotland as a debt and in England, Wales and Northern Ireland¹³⁰ summarily as a civil debt.

(8) Where the Privy Council causes an inquiry to be held under this article it may make orders—

- (a) as to the costs or expenses¹³¹ of the parties at the inquiry; and
- (b) as to the parties by whom costs or expenses¹³² are to be paid,

...¹³³

(9) For the purposes of paragraph (8), orders—

- (a) as to costs in England and Wales or Northern Ireland may by leave of the High Court be enforced in the same manner as orders of the High Court to the same effect; and
- (b) as to expenses in Scotland may by leave of the Court of Session be enforced in the same manner as decrees of the Court of Session to the same effect.¹³⁴

Supplementary and transitional provisions and extent

48.—(1) The transitional provisions contained in Schedule 2 to this Order shall apply.

(2) The Privy Council may by order make such further transitional provisions as it considers appropriate.

(3) The consequential amendments contained in Schedule 4 to this Order shall apply.

(4) This Order extends to the whole of the United Kingdom.

Review

49. By 1st November 2021, and subsequently at intervals not exceeding 5 years from that date, in accordance with section 30 of the Small Business, Enterprise and Employment Act 2015, the Secretary of State must—

- (a) carry out a review of the amendments made to this Order by the European Qualifications (Health and Social Care Professions) Regulations 2016;
- (b) set out the conclusions of the review in a report; and
- (c) publish the report.¹³⁵

SCHEDULE 1

THE HEALTH AND CARE PROFESSIONS COUNCIL AND COMMITTEES

PART I: THE HEALTH AND CARE PROFESSIONS COUNCIL

Membership: general

1A.—(1) The Council shall consist of—

- (a) registrant members, that is members who are registrants; and
- (b) lay members, that is members who—
 - (i) are not and never have been registrants or registered under the 1960 Act or in the AODP register, the AEP register, the BPS register or the HAC register;
 - (ia) are not and never have been registered as social workers in a register kept by the General Social Care Council, the Care Council for Wales, the Scottish Social Services Council or the Northern Ireland Social Care Council; and¹³⁶
 - (ii) do not hold qualifications which would entitle them to apply for registration under this Order.

(1A) In sub-paragraph (1), “the HAC Register” means the register of dispensers of hearing aids maintained by the Hearing Aid Council under section 2(1)(a) of the Hearing Aid Council Act 1968.¹³⁷

(2) The members of the Council shall be appointed by the Privy Council.

(3) The Privy Council shall ensure that, at any time, at least one member of the Council lives or works wholly or mainly in each of England, Scotland, Wales and Northern Ireland.

(4)...¹³⁸

Matters for the order of the Privy Council under article 3(7A)

1B.—(1) An order under article 3(7A) shall include provision with regard to—

- (a) the numbers of registrant members and lay members of the Council;
- (b) the terms of office for which members of the Council are appointed, and the order may provide that these are to be determined by the Privy Council, on appointment);
- (c) the grounds on which persons are to be disqualified from appointment as registrant or lay members of the council;
- (d) the appointment of a chair of the Council and the chair’s term of office, and the order may provide that the term is to be determined by whoever makes the appointment as chair, on appointment;
- (e) deputising arrangements in respect of the chair;
- (f) the quorum of the Council; and
- (g) the circumstances in which members cease to hold office or may be removed or suspended from office.

(2) But an order under article 3(7A) must not include any provision which would have the effect that a majority of the members of the Council would be lay members.

(3) An order under article 3(7A) may include provision with regard to—

- (a) the maximum period for which a member of the Council may hold office as a member during a specified period;
- (b) the maximum period for which a member of the Council may serve as chair of the Council during a specified period;
- (c) the education and training of members of the Council, and the order may provide for the Council to include the requirements with regard to education and training of its members in standing orders, and for those standing orders to provide for—
 - (i) that education and training to be the responsibility of another body, and
 - (ii) those requirements to be set and varied by that body from time to time;
- (d) the attendance of members of the Council at meetings of the Council; and
- (e) the effect (if any) of any vacancy among the membership of the Council or any defect in the appointment of a member.

(4) An order under article 3(7A) may make different provision for different cases or different classes of case and may contain such incidental, consequential, transitional, transitory, saving or supplementary provisions as appear to the Privy Council to be necessary or expedient.¹³⁹

Procedure of the Council and committees

13.—(1) Subject to any provision made by this Order or under this Order (otherwise than by standing orders) the Council may by standing orders make provision in respect of—

- (a) its procedure;
- (b) the performance of its functions;
- (c) the constitution of its committees and sub-committees, other than the statutory committees;
- (d) the procedure of any of its committees or sub-committees;
- (e) the performance by any of its committees or sub-committees of their functions; and
- (f) the standards of education, training, attendance and performance expected of the members of committees and sub-committees.

(2) Standing orders of the Council may make provision with regard to the provisional suspension of a member of the Council from office, pending the taking of a decision about the suspension or removal from office of the member in accordance with the provisions of an order under article 3(7A).¹⁴⁰

14.—(1) In appointing non-Council members to any committee set up under article 3(12) the Council shall have regard, where appropriate and subject to the other provisions of this Order, to the guidance issued by the Commissioner for Public Appointments.

(2) The Council shall ensure that such members of the committee who are not Council members shall have such qualifications, interests or experience as, in the opinion of the Council, are relevant to the field with which the committee is mainly concerned.

(3)...¹⁴¹

(4) The Council shall—

- (a) establish and maintain a system for the declaration and registration of private interests of its members and of other members of its committees and sub-committees; and
- (b) publish entries recorded in a register of members' interests.

15.—(1) Decisions of the Council and committees shall be made by a majority vote of the members present and voting.

(2) In the event of a tie the Chair¹⁴² shall have an additional casting vote.

(3) This paragraph does not apply to the statutory committees or to decisions of the Council under article 37.

Powers of the Council

16.—(1) Subject to any provision made by or under this Order, the Council may do anything which appears to it to be necessary or expedient for the purpose of, or in connection with, the performance of its functions.

(2) The Council shall, in particular, have power—

- (a) to borrow;
- (b) to appoint such staff as it may determine;
- (c) to pay its staff such salaries, allowances and expenses as it may determine;
- (d) to make such provision for the payment of such pensions, allowances or gratuities, or such contributions or payments towards provision for such pensions, allowances or gratuities, to or in respect of its staff as it may determine;
- (e) to make such provision in respect of its members and members of its committees and sub-committees as it may determine—
 - (i) for the payment of fees and allowances, including the payment of allowances to employers of such members for the purposes of enabling the members to perform functions under this Order;
 - (ii) (for the reimbursement of such expenses as the members may reasonably have incurred in the course of carrying out their functions under this Order;
- (f) to establish such sub-committees of any of its committees as it may determine;
- (g) ...¹⁴³
- (h) to abolish any of its committees, other than a statutory committee, or any sub-committee of any of its committees.

(3) The Council may not employ any member of the Council or its committees or sub-committees.

(4) If it appears to the Council that any statutory committee is failing to perform its functions adequately, the Council may give a direction as to the proper performance of those functions.

(5) Where the Council, having given a direction under sub-paragraph (4), is satisfied that the committee has failed to comply with the direction, it may exercise any power of that committee or do any act or other thing authorised to be done by that committee.

(6)...

(7) ...¹⁴⁴

(8) No person who is a member of the Council or any of its committees or sub-committees by virtue of his membership of any profession, may take part in any proceedings of the Council in any period during which he is the subject of any investigations, proceedings or a determination against him concerning his fitness to practise his profession.

16A...¹⁴⁵

PART II: THE STATUTORY COMMITTEES

Education and Training Committee

17.—(1) Subject to any provision made by this Order, the Council shall by rules make provision with regard to the constitution of the Education and Training Committee, and those rules shall include provision with regard to—

- (a) its size and membership;
- (b) the appointment, suspension and removal of its members;
- (c) its chair, including the deputising arrangements for its chair; and
- (d) the quorum at its meetings.

(2) The rules may make provision for a body (including a committee of the Council other than the Education and Training Committee) to assist the Council in connection with any function relating to the appointment of members or particular members of the Education and Training Committee, including any function relating to tenure of office or suspension or removal from office.

(2A) The Council shall have regard, where appropriate, when appointing non- Council members to the Education and Training Committee, to the guidance issued by the Commissioner for Public Appointments.

(2B) Subject to any provision made by or under this Order, including provision made by standing orders of the Council made under paragraph 13(d), the Education and Training Committee may regulate its own procedure.¹⁴⁶

(3) No person who is a member of the Council or the Education and Training Committee by virtue of his membership of any profession may take part in any proceedings of the Committee in any period during which he is the subject of any investigations, proceedings or a determination against him concerning his fitness to practise his profession.

(4) The powers of the Education and Training Committee may be exercised even though there is a vacancy among its members.

(5) No proceedings of the Education and Training Committee shall be invalidated by any defect in the appointment of a member.

Practice Committees

18.—(1) Subject to any provision made by this Order, the Council shall by rules make provision with regard to the constitution of each Practice Committee, and those rules shall include provision with regard to—

- (a) its size and membership;
- (b) the appointment, suspension and removal of its members;
- (c) its chair, including the deputising arrangements for its chair; and
- (d) the quorum at its meetings.

(2) Where the rules provide for one or more panels of members of a Practice Committee to perform functions of the Committee, the provision required by sub-paragraph (1)(d) includes provision with regard to the quorum at meetings of those panels.

(3) The rules may make provision for a body (including a committee of the Council which is not one of the Practice committees) to assist the Council in connection with any function relating to the appointment of members or particular members of a Practice Committee, including any function relating to tenure of office or suspension or removal from office.

(4) Subject to any provision made by or under this Order, including provision made by standing orders of the Council made under paragraph 13(d), each Practice Committee may regulate its own procedure.¹⁴⁷

19.—(1)...¹⁴⁸

(2) - (4)...¹⁴⁹

(5) The Council shall, subject to other provisions in this Order, have regard when selecting non-Council members for a Practice Committee, to the guidance issued by the Commissioner for Public Appointments.

(6) ...¹⁵⁰

(7) Decisions of a Practice Committee shall be made by a majority vote of the members present and voting.

(8) In the event of a tie, the Chair¹⁵¹ shall have an additional casting vote and in respect of a decision under Part V shall exercise his casting vote in favour of the person concerned.

(9)...¹⁵²

(10) Apart from proceedings under Part V, no proceedings of a Practice Committee shall be invalidated by any defect in the appointment of a member.

(10A) In exercising a function under article 27, 29, 30 or 33, the Conduct and Competence Committee (or any panel by which the function is exercisable as mentioned in paragraph 18(2) of this Schedule) must have regard to the over-arching objective.

(10B) In exercising a function under any of articles 28 to 30 and 33, the Health Committee (or any panel by which the function is exercisable as mentioned in paragraph 18(2) of this Schedule) must have regard to the over-arching objective.

(10C) References in sub-paragraphs (10A) and (10B) to the over-arching objective are to the over-arching objective of the Council under article 3(4)(read with article 3(4A)).¹⁵³

(11)...¹⁵⁴

SCHEDULE 3

INTERPRETATION

1. In this Order, unless the context otherwise requires—

"the 1960 Act" means the Professions Supplementary to Medicine Act 1960;

"the 2009 Order" means the Health Care and Associated Professions (Miscellaneous Amendments and Practitioner Psychologists) Order 2009;¹⁵⁵

"AEP register" means the aggregate of the entries in the membership list maintained by the Association of Educational Psychologists (which held its inaugural meeting at the London School of Economics on 14th April 1962 and was founded on that date) that relate to full members of the Association;¹⁵⁶

"AODP register" means Part 1 of the register of operating department practitioners maintained by the Association of Operating Department Practitioners;¹⁵⁷

"application for restoration" has the meaning given to it in article 33;

"appropriate cover" is to be construed in accordance with article 11A(3);¹⁵⁸

"approved course of education or training" means a course approved under article 15(5)(a);

"approved qualification" has the meaning given to it in articles 13 and 15;

"BPS register" means the aggregate of the entries in the register maintained by the British Psychological Society (which was incorporated by Royal Charter on 26th February 1965) that relate to holders of practising certificates who are full members of one or more of the divisions of the Society in respect of the following branches of psychology: clinical psychology; counselling psychology; educational psychology; forensic psychology; health psychology; occupational psychology; and sport and exercise psychology;¹⁵⁹

"corresponding practitioner member" means the practitioner member appointed under Schedule 2 from the same part of the register as the alternate member concerned;

"the Council" means the Health and Care Professions Council (formerly known as the Health Professions Council and continued in existence by section 214 of the Health and Social Care Act 2012);¹⁶⁰

...^{161,162,163}

"enactment" has the same meaning as in Schedule 3 to the Health Act 1999;¹⁶⁴

"European professional card" has the meaning given in Directive 2005/36/EC of the European Parliament and of the Council of 7th September 2005 on the recognition of professional qualifications, as amended from time to time;¹⁶⁵

"exempt person" means

- (a) a national of a relevant European State other than the United Kingdom,
- (b) a national of the United Kingdom who is seeking access to, or is pursuing, a relevant profession by virtue of an enforceable EU¹⁶⁶ right; or
- (c) a person who is not a national of a relevant European State but who is, by virtue of an enforceable EU¹⁶⁷ right, entitled to be treated, for the purposes of access to and pursuit of a relevant profession, no less favourably than a national of a relevant European State;¹⁶⁸

"General Systems Regulations" means the European Union (Recognition of Professional Qualifications) Regulations 2015;¹⁶⁹

...¹⁷⁰

"health care" includes—

- (a) all forms of health care for individuals, whether relating to physical or mental health, and
- (b) procedures that are similar to forms of medical or surgical care but are not provided in connection with a medical condition;¹⁷¹

"indemnity arrangement" is to be construed in accordance with article 11A(2);¹⁷²

"lay person" means, in relation to Screeners, a person who is not and never has been a member of a health or social care profession which is regulated under any enactment;

"licensing body" means a regulatory body which has the function of authorising persons to practise a health or social care profession;

"national", in relation to a relevant European State¹⁷³, means the same as it does for the purposes of the EU¹⁷⁴ Treaties but does not include a person who by virtue of Article 2 of Protocol No 3 (Channel Islands and Isle of Man) to the Treaty of Accession is not to benefit from EU¹⁷⁵ provisions relating to the free movement of persons and services;¹⁷⁶

"the ODP Order" means the Health Professions (Operating Department Practitioners and Miscellaneous Amendments) Order 2004;¹⁷⁷

"parties" except in respect of article 47;¹⁷⁸ means the Council and the person concerned except in respect of article 37 when it includes the Education and Training Committee;

"Practice Committees" means the Investigating Committee, the Conduct and Competence Committee and the Health Committee;

"practising" means working as a member of one of the relevant professions;

"practitioner psychologists" means clinical psychologists, counselling psychologists, educational psychologists, forensic psychologists, health psychologists, occupational psychologists and sport and exercise psychologists and this group of professions is to be treated as a single profession for the purpose of this Order;¹⁷⁹

"preliminary meetings" has the meaning given to it in articles 25(5)(b) and 30(2)(b)(ii);

"prescribed" means prescribed in rules made by the Council;

"register" means the register established and maintained under article 5;

"registered professional" means a member of one of the relevant professions who has been admitted to the register established and maintained under article 5;

"registrant" means a member of one of the relevant professions who has been admitted to the register maintained under article 5;

...¹⁸⁰

"Registrar" means the person appointed under article 4;

"relevant European State" means an EEA State or Switzerland;¹⁸¹

"relevant period" has the meaning given to it in article 13;

"relevant professions" means arts therapists; biomedical scientists;¹⁸² chiropodists and podiatrists;¹⁸³ clinical scientists; dietitians; hearing aid dispensers;¹⁸⁴ ...¹⁸⁵ occupational therapists; operating department practitioners;¹⁸⁶ orthoptists; paramedics; physiotherapists; practitioner

psychologists;¹⁸⁷ prosthetists and orthotists; radiographers; social workers in England¹⁸⁸ and speech and language therapists;

"Screeners" means persons appointed under article 23;

"social worker in England" means a member of the social work profession in England, and references to "social work in England" are to be construed accordingly;¹⁸⁹

"standards of proficiency" means the standards established by the Council under article 5(2);

"statutory committees" has the meaning given to it in article 3(9);

"United Kingdom country" means England, Scotland, Wales and Northern Ireland.

"visiting health or social care¹⁹⁰ professional from a relevant European State" means a person registered in exercise of entitlement under article 13A (visiting health or social care¹⁹¹ professionals from relevant European States).¹⁹²

1A. (1) For the purposes of this Order, a person ("P") performs the functions of a dispenser of hearing aids if P—

- (a) assesses or tests an individual's hearing; or
- (b) prescribes a hearing aid for an individual,

with a view to the sale, whether by P or another, of a hearing aid to, or for the use of, that individual and "hearing aid dispenser" shall be construed accordingly.

(2) In sub-paragraph (1)—

"hearing aid" means an electronic device, designed to be placed outside or within the ear, which processes and amplifies sounds using electro-acoustic or electro-magnetic systems in order to compensate for hearing loss;

"sale" means supply by way of retail sale or by way of hire but does not include a sale to a person acquiring for the purposes of trade.¹⁹³

2. In this Order, words importing the masculine gender include the feminine.

¹ substituted, Health and Social Care Act 2012, s.213(4)

² substituted, Health and Social Care Act 2012, s.214(3)

³ substituted, Health and Social Care Act 2012, s.214(2)

⁴ inserted, Health and Social Care Act 2012, s.218(2)

⁵ inserted, Health and Social Care (Safety and Quality) Act 2015, Sch., para 6(2)

⁶ deleted, Health and Social Care Act 2012, s.215(2)(a)

⁷ deleted, Health and Social Care Act 2012, s.215(2)(b)

⁸ inserted, Health and Social Care Act 2012, s.215(2)(c)

⁹ inserted, Health and Social Care Act 2012, s.218(3)

¹⁰ inserted, Health and Social Care Act 2012, s.215(3)

¹¹ substituted, Health and Social Care Act 2012. S.222

¹² inserted, SI 2009/1182, Sch. 2, para 1(a)

¹³ deleted, SI 2009/1182, Sch. 2, para 1(b)

¹⁴ inserted, SI 2009/1182, Sch. 2, para 1(c)

¹⁵ inserted, SI 2009/1182, Sch. 2, para 1(d)

¹⁶ inserted, SI 2009/1182, Sch. 2, para 1(e)

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- ¹⁷ inserted, Health and Social Care Act 2012, s.215(4)
¹⁸ deleted, SI 2009/1182, Sch. 2, para 2
¹⁹ inserted, Health and Social Care Act 2012, s.215(5)
²⁰ inserted, SI 2007/3101, Reg. 267
²¹ inserted, Health and Social Care Act 2012, s.215(5)(b)
²² inserted, SI 2007/3101, Reg. 268
²³ substituted, SI 2007/3101, Reg. 269(a)
²⁴ substituted, SI 2007/3101, Reg. 269(b)
²⁵ substituted, SI 2007/3101, Reg. 270(a)
²⁶ inserted, SI 2014/1887, Art. 12(a)
²⁷ substituted, SI 2014/1887, Art. 12(b)
²⁸ inserted, SI 2014/1887, Art. 12(c)
²⁹ *ibid*
³⁰ inserted, SI 2014/1887, Art. 12(d)
³¹ inserted, SI 2014/1887, Art. 12(c)
³² inserted, SI 2014/1887, Art. 12(e)
³³ substituted, SI 2007/3101, Reg. 270(b)
³⁴ deleted, SI 2007/3101, Reg. 270(c)
³⁵ inserted, Health and Social Care Act 2012, s.215(5)(b)
³⁶ inserted, SI 2007/3101, Reg. 270(d)
³⁷ substituted, SI 2007/3101, Reg. 271(a)
³⁸ inserted, SI 2014/1887, Art. 13(b)
³⁹ inserted, SI 2014/1887, Art. 13(d)
⁴⁰ inserted, SI 2014/1887, Art. 13(b)
⁴¹ inserted, SI 2014/1887, Art. 13(c)
⁴² inserted, SI 2014/1887, Art. 13(e)
⁴³ substituted, SI 2004/2033, Art. 10(1)
⁴⁴ inserted, Health and Social Care Act 2012, s.215(6)
⁴⁵ inserted, SI 2007/3101, Reg. 271(b)
⁴⁶ inserted, SI 2014/1887, Art. 13(f)
⁴⁷ inserted, SI 2014/1887, Art. 14
⁴⁸ substituted, SI 2007/3101, Reg. 272(a)
⁴⁹ deleted, Health and Social Care Act 2012, s.215(7)(a)
⁵⁰ inserted, SI 2016/1030, Art. 147(2)
⁵¹ substituted, SI 2007/3101, Reg. 272(a)
⁵² inserted, Health and Social Care Act 2012, s.215(7)(b)
⁵³ inserted, SI 2007/3101, Reg. 272(b)
⁵⁴ deleted, Health and Social Care Act 2012, s.215(8)(a)
⁵⁵ inserted, Health and Social Care Act 2012, s.215(8)(b)
⁵⁶ substituted, SI 2010/233, Art. 7(2)(a)
⁵⁷ inserted, SI 2012/1479, Art. 2
⁵⁸ inserted, SI 2009/1182, Sch. 2, para 3(b)
⁵⁹ substituted, SI 2004/2033, Art. 3(1)
⁶⁰ inserted, SI 2010/233, Art. 7(2)(b)
⁶¹ inserted, SI 2012/1479, Art. 2
⁶² substituted, SI 2010/233, Art. 7(2)(c)
⁶³ this reference should now be a reference to paragraph (1)(b)
⁶⁴ substituted, Health and Social Care Act 2012, s.215(5)(a)
⁶⁵ substituted SI 2016/1030, Art. 148(2)
⁶⁶ substituted SI 2016/1030, Art. 148(3)(a)
⁶⁷ substituted SI 2016/1030, Art. 148(3)(b)
⁶⁸ inserted, SI 2007/3101, Reg. 273
⁶⁹ inserted, Health and Social Care Act 2012, s.215(9)
⁷⁰ inserted, Health and Social Care Act 2012, s.218(4)
⁷¹ inserted, Health and Social Care Act 2012, s.218(5)

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- ⁷² inserted, Health and Social Care Act 2012, s.218(5)
⁷³ inserted, Health and Social Care Act 2012, s.218(6)
⁷⁴ inserted, Health and Social Care Act 2012, s.218(7)
⁷⁵ inserted, Health and Social Care Act 2012, s.218(8)
⁷⁶ inserted, Health and Social Care Act 2012, s.218(9)(a)
⁷⁷ inserted, Health and Social Care Act 2012, s.218(9)(b)
⁷⁸ *ibid*
⁷⁹ inserted, Health and Social Care Act 2012, s.215(10)
⁸⁰ inserted, SI 2007/3101, Reg. 274
⁸¹ inserted, Health and Social Care Act 2012, s.215(11)
⁸² inserted, Health and Social Care Act 2012, s.218(10)
⁸³ inserted, SI 2009/1182, Sch. 2, para 3
⁸⁴ reference to OHPA (abolished by the Health and Social Care Act 2012) omitted
⁸⁵ spent, by virtue of repeals made by the Protection of Freedoms Act 2012, s.75(6)
⁸⁶ substituted, SI 2009/1182, Sch. 2, para 6(a)
⁸⁷ substituted, SI 2009/1182, Sch. 2, para 6(b)
⁸⁸ deleted, SI 2009/1182, Sch. 2, para 6(c)
⁸⁹ inserted, Health and Social Care (Safety and Quality) Act 2015, Sch., para 6(3)
⁹⁰ deleted, SI 2009/1182, Sch. 2, para 7
⁹¹ substituted, SI 2009/1182, Sch. 2, para 8
⁹² inserted, SI 2014/1887, Art. 15
⁹³ inserted, Health and Social Care Act 2012, s.215(5)(b)
⁹⁴ inserted, SI 2007/3101, Reg. 275
⁹⁵ inserted, SI 2014/1887, Art. 16(a)
⁹⁶ inserted, SI 2014/1887, Art. 16(b)
⁹⁷ inserted, SI 2014/1887, Art. 16(c)
⁹⁸ inserted, SI 2009/1182, Sch. 2, para 9(a)
⁹⁹ substituted, SI 2009/1182, Sch. 2, para 9(a)
¹⁰⁰ inserted, Health and Social Care Act 2012, s.216(2)
¹⁰¹ substituted, SI 2009/1182, Sch. 2, para 9(b)
¹⁰² inserted, Health and Social Care Act 2012, s.216(3)
¹⁰³ inserted, Health and Social Care Act 2012, s.216(4)
¹⁰⁴ substituted, SI 2004/2033, Art. 10(2)
¹⁰⁵ substituted, SI 2007/3101, Reg. 276(a)
¹⁰⁶ inserted, SI 2014/1887, Art. 17
¹⁰⁷ substituted, SI 2004/2033, Art. 10(3)
¹⁰⁸ inserted, Health and Social Care Act 2012, s.216(5)
¹⁰⁹ inserted, SI 2007/3101, Reg. 276(b)
¹¹⁰ inserted SI 2016/1030, Art. 149(2)
¹¹¹ inserted SI 2016/1030, Art. 149(3)
¹¹² inserted SI 2016/1030, Art. 149(4)
¹¹³ inserted, Health and Social Care Act 2012, s.216(6)
¹¹⁴ inserted, Health and Social Care Act 2012, s.216(7)
¹¹⁵ inserted, Health and Social Care Act 2012, s.215(12)
¹¹⁶ substituted, SI 2009/1182, Sch. 2, para 10
¹¹⁷ inserted, SI 2010/233, Art. 7(3)
¹¹⁸ inserted, SI 2009/1182, Sch. 2, para 11(a)
¹¹⁹ inserted, SI 2009/1182, Sch. 2, para 11(b)
¹²⁰ inserted, SI 2009/1182, Sch. 2, para 12(a)
¹²¹ substituted, SI 2009/1182, Sch. 2, para 12(b)
¹²² substituted, SI 2009/1182, Sch. 2, para 13
¹²³ inserted, Health and Social Care Act 2012, s.219(1)
¹²⁴ inserted, Health and Social Care Act 2012, s.218(11)
¹²⁵ substituted, SI 2009/1182, Sch. 2, para 14(a)
¹²⁶ substituted, SI 2009/1182, Sch. 2, para 14(b)

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- 127 substituted, SI 2009/1182, Sch. 2, para 14(c)
128 inserted, SI 2004/2033, Art. 10(4)(a)(i)
129 *ibid*
130 inserted, SI 2004/2033, Art. 10(4)(a)(ii)
131 inserted, SI 2004/2033, Art. 10(4)(b)(i)
132 *ibid*
133 deleted, SI 2004/2033, Art. 10(4)(b)(ii)
134 substituted, SI 2004/2033, Art. 10(4)(c)
135 inserted SI 2016/1030, Art. 150
136 inserted, Health and Social Care Act 2012, s.213(5)
137 inserted, SI 2010/233, Art. 7(4)(b)
138 deleted, SI 2013/235, Sch. 2, para 52
139 substituted, SI 2009/1182, Sch. 2, para 15(2)
140 substituted, SI 2009/1182, Sch. 2, para 15(3)
141 deleted, SI 2009/1182, Sch. 2, para 15(4)
142 substituted, SI 2009/1182, Sch. 2, para 15(5)
143 deleted, SI 2009/1182, Sch. 2, para 15(6)(a)
144 deleted, SI 2009/1182, Sch. 2, para 15(6)(b)
145 deleted, Health Act 2006, s.80(1), Sch. 8, para 48
146 substituted, SI 2009/1182, Sch. 2, para 15(7)
147 substituted, SI 2009/1182, Sch. 2, para 15(8)
148 deleted, SI 2009/1182, Sch. 2, para 15(9)
149 *ibid*
150 *ibid*
151 substituted, SI 2009/1182, Sch.2, para 15(9)
152 deleted, SI 2009/1182, Sch. 2, para 15(9)
153 inserted, Health and Social Care (Safety and Quality) Act 2015, Sch., para 6(4)
154 *ibid*
155 inserted, SI 2009/1182, Sch. 2, para 16(a)
156 inserted, SI 2009/1182, Sch. 2, para 16(c)
157 inserted, SI 2004/2033, Art. 3(4)(a)
158 inserted, SI 2014/1887, Art. 17
159 inserted, SI 2009/1182, Sch. 2, para 16(c)
160 substituted, Health and Social Care Act 2012, s.214(4)
161 deleted, SI 2004/1947, Reg.19(2)(a)
162 deleted, SI 2007/3101, Reg. 277(a)
163 *ibid*
164 inserted, SI 2009/1182, Sch. 2, para 16(b)
165 inserted, SI 2016/1030, Art. 151(2)(b)
166 substituted, SI 2011/1043, Art. 6(1)(f)
167 substituted, SI 2011/1043, Art. 6(1)(f)
168 substituted, SI 2016/1030, Art. 151(2)(a)
169 inserted, SI 2007/3101, Reg. 277(c)
170 deleted, SI 2009/1182, Sch. 2, para 16(e)
171 inserted, Health and Social Care Act 2012, s.219(2)
172 inserted, SI 2014/1887, Art. 17
173 inserted, SI 2007/3101, Reg. 277(d)
174 substituted, SI 2011/1043, Art. 6(1)(a)
175 substituted, SI 2011/1043, Art. 6(2)(c)
176 inserted, SI 2007/3101, Reg. 20(2)(b)(i)
177 inserted, SI 2004/2033, Art. 3(4)(b)
178 substituted, SI 2004/2033, Art. 10(5)(a)
179 inserted, SI 2009/1182, Sch. 2, para 16(c)
180 deleted, SI 2009/1182, Sch. 2, para 16(e)
181 inserted, SI 2007/3101, Reg. 277(e)

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- ¹⁸² inserted, SI 2004/2033, Art. 10(5)(b)(ii)
¹⁸³ substituted, 2004/2033, Art. 10(5)(b)(i)
¹⁸⁴ inserted, SI 2010/233, Art. 7(5)(a)
¹⁸⁵ deleted, SI 2004/2033, Art. 10(5)(b)(ii)
¹⁸⁶ inserted, SI 2004/2033, Art. 3(4)(c)
¹⁸⁷ inserted, SI 2009/1182, Sch. 2, para 16(d)
¹⁸⁸ inserted, Health and Social Care Act 2012, s.213(2)
¹⁸⁹ inserted, Health and Social Care Act 2012, s.213(3)
¹⁹⁰ inserted, Health and Social Care Act 2012, s.215(13)
¹⁹¹ inserted, Health and Social Care Act 2012, s.215(13)
¹⁹² inserted, SI 2007/3101, Reg. 277(f)
¹⁹³ inserted, SI 2010/233, Art. 7(5)(b)