

# The Health Care and Associated Professions (Miscellaneous Amendments) (no.2) Order 2008 ("S601B")

## *Overview and provisions related to pharmacy*

### **General**

S601B, like the Pharmacists & Pharmacy Technicians Order 2007 (P&PTO), is an order under section 60 of the Health Act 1999 (a "section 60 Order"). It is part of a series of pieces of legislation that will take forward the reforms identified in the White Paper *Trust, Assurance and Safety*. S601B concentrates on the governance recommendations arising from the White Paper, and makes changes in this area to the legislation governing the regulation of dentists and professions regulated by the Health Professions Council. It also introduces the statutory regulation of practitioner psychologists through the Health Professions Council.

A parallel Order (s601A), published for consultation on 26 November 2007, will be making similar changes for professions regulated by the General Medical, Optical, Osteopathic and Chiropractic Councils, and the Nursing and Midwifery Council.

The reason for having two Orders instead of one is that S601B deals with those bodies that regulate health care professions where regulation as regards Scotland is devolved -- legislation covering these professions is subject to a different approval procedure. Pharmacy technicians, though not pharmacists, fall into this category, which is why the Society is included in this Order.

The changes mentioned above are not directly relevant to pharmacy, other than as indicators of what the Government might be expecting from the future General Pharmaceutical Council in the way of governance, but this Order does include some measures to deliver other legislative requirements.

### **Bringing pharmacy technicians in Scotland into statutory regulation**

The greater part of the pharmacy-related amendments proposed in Order 1B consist of updates to the P&PTO and related legislation to bring pharmacy technicians in Scotland into statutory regulation, and these can be found in Schedules 3 and 4 of the Order.

There are other pharmacy-related amendments proposed, however, and these are outlined below.

### **Other pharmacy-related changes**

- 1 Schedule 3 para 3 proposes changes to the definition of the Society's main objective. The words "*health and safety of members of the public*" have been amended to read "*health, ~~and~~ safety **and well-being** of members of the public,*" so the objective would read "*to protect, promote and maintain the health, safety and well-being of members of the public, and in particular of those members of the public who use or need the services of registrants, by ensuring that registrants adhere to such standards as the Society consider necessary for the safe and effective practice of their professions*". Similar changes are being proposed to the legislation governing other health professions.

- 2 Sch 3 para 4 proposes amendments that would require the Council's annual report to include a description of how it adheres to good equality & diversity practice, and that would require the Privy Council to lay the report before the Scottish Parliament as well as Westminster. It would also update the P&PTO reference to auditors under the Companies Act 1989 to take account of the Companies Act 2006. Similar provisions are being proposed for other health professional regulators.
- 3 Sch 3 para 5 applies to the appointment, suspension or removal of members of statutory committees. It proposes a rewording to clarify that the Council may enter into arrangements relating to these functions with committees established through rules (statutory instruments) as well as those established under the Charter.
- 4 Sch 3 paras 6, 11 & 12 would give the Society power to register persons as practising pharmacists on a temporary basis, and to annotate register entries on a temporary basis, during civil emergencies. These provisions have been drafted so that prescribing and treatment might continue in case of pandemics etc. and are intended to be used for a finite emergency period. They would allow marking of the register to distinguish between emergency and normal registrations/annotations. Similar provisions are being proposed to the legislation governing the GMC and NMC.
- 5 Sch 3 paras 13, 14 & 22 proposes amendments that would mean that either the CPD Committee or the Education Committee could carry out the CPD Committee's functions.
- 6 Sch 3 para 18 proposes an addition to the list of reasons for regarding someone's fitness to practise as impaired -- namely, a decision taken by the Independent Barring Board (also called the Independent Safeguarding Authority), or its Northern Irish or Scottish equivalent, that the person should be barred from working with children or vulnerable adults. Similar provisions are being proposed for other health professional regulators.
- 7 Sch 3 para 19(a) refers to the Registrar's obligation to refer allegations to the Investigating Committee, and proposes to clarify this by making explicit that the Council may set threshold criteria so that allegations that fall below the threshold need not be referred.
- 8 Sch 3 para 26 revises those of the P&PTO's provisions that cover the Privy Council's procedure for making orders under the P&PTO. Rules covering both pharmacists and pharmacy technicians would need to be laid in both the Westminster and Scottish Parliaments. Any resolution passed by the Scottish Parliament to annul such rules would annul them in their entirety ie. not only those aspects of the rules relating to pharmacy technicians.
- 9 Sch 4 para 5 proposes amendments to other legislation relating to the introduction of statutory regulation for pharmacy technicians.
- 10 Sch 4 para 6 proposes miscellaneous amendments to update references in recent legislation.

The Society does have potential concerns over some of the provisions in the draft Order, and these are detailed [here](#)