These notes refer to the Health and Social Care Act 2008 (c.14) which received Royal Assent on 21 July 2008

HEALTH AND SOCIAL CARE ACT 2008

EXPLANATORY NOTES

TERRITORIAL EXTENT

Council for Healthcare Regulatory Excellence

Section 113: Council for Healthcare Regulatory Excellence

357. Section 113 changes the name of the CRHP to the Council for Healthcare Regulatory Excellence. As a consequence of the name change, a number of consequential amendments are required to the Health Care Professions Act 2002 and other enactments, which are contained in Schedule 10.

358. The general functions of the Council for Healthcare Regulatory Excellence are set out in section 25 of the Health Care Professions Act 2002. Section 113 inserts a new subsection (2A) into section 25, which provides that the main objective of the Council for Healthcare Regulatory Excellence, in exercising its functions, is to promote the health, safety and well-being of patients and other members of the public.

Section 114: Constitution etc. of the Council

359. Section 114 makes provision regarding the constitution of the Council for Healthcare Regulatory Excellence. The present Council of nineteen members is reduced to nine members. It will consist of a chair appointed by the Privy Council, six non-executives appointed by the Secretary of State and the devolved administrations, and two executives appointed by the Council itself. *Paragraphs 20 and 21* of Schedule 10 allow the Secretary of State and the Privy Council respectively, if they wish, to delegate the selection process to the Appointments Commission.

360. In addition, in *subsection (3)* of this section, amendments are made to the enabling powers to make regulations (contained in paragraph 6 of Schedule 7 to the Health Care Professions Act 2002) relating to conditions of appointment, tenure of office etc. of the chair, Council members and deputy chair as a consequence of the change in the constitution. *Subsection (6)* inserts a new sub-paragraph into paragraph 16 of Schedule 7 to require the Council for Healthcare Regulatory Excellence in its annual report to include a statement on how it and each health professions regulatory body has, in the Council's opinion, promoted the health, safety and well-being of patients and other members of the public.

Section 115: Powers and duties of Council

361. Section 115 provides for a new subsection (4) to be substituted for the existing subsection (4) of section 26 of the Health Care Professions Act 2002. The new subsection clarifies that the Council for Healthcare Regulatory Excellence may investigate individual cases for the purpose of providing general reports on the performance of healthcare regulatory bodies and making general recommendations to those bodies affecting future cases.

Section 116: Powers of Secretary of State and devolved administrations

362. Section 116 inserts a new section 26A into the Health Care Professions Act 2002 and amends section 26 of that Act. It enables the Secretary of State, the Welsh Ministers and the Scottish Ministers and DHSSPSNI to require the Council for Healthcare Regulatory Excellence to provide advice and investigate and report on matters relating to the regulation of the health care professions.

Section 117: Duty to inform and consult the public

363. Section 117 inserts a new section 26B into the Health Care Professions Act 2002, which imposes a duty on the Council for Healthcare Regulatory Excellence to publish, or provide in a suitable manner, information about itself and the carrying out of its functions. It also imposes a duty on the Council for Healthcare Regulatory Excellence to seek the views of members of the public, and bodies which appear to it to represent the interests of patients, on issues relating to the Council's functions.

Section 118: Reference of cases by Council to court

364. Section 118 amends section 29 of the Health Care Professions Act 2002. Section 29 is extended to enable the Council for Healthcare Regulatory Excellence to refer to the High Court or, in Scotland, the Court of Session, cases relating to impairment of fitness to practise on grounds of ill health, in addition to cases relating to misconduct and professional competence.

365. The section makes some minor amendments which update references to the committees to which section 29 applies. It also makes amendments to remove the ability of the Council for Healthcare Regulatory Excellence to refer cases of the GMC and the GOC to the High Court or, in Scotland, the Court of Session, as those cases will fall within the remit of the new OHPA. The GMC and GOC are given powers to refer these cases in Schedule 7. *Subsection (3)* clarifies which court has jurisdiction to deal with referrals by the Council for Healthcare Regulatory Excellence by reference to the address to which notification of the relevant decision was sent. *Subsection (4)* amends section 29(6) (which currently provides a time limit of four weeks within which the Council may refer the case to the High Court or, in Scotland, the Court of Session). Section 29(6) is amended to provide that the Council may not refer a case to the High Court or, in Scotland, the Court of Session, after a period of forty days. The forty day period begins on the last day on which an appeal against the decision could be made.