

**EXPLANATORY MEMORANDUM TO THE
HEALTH PROFESSIONS COUNCIL (PRACTICE COMMITTEES AND
REGISTRATION) (AMENDMENT) RULES ORDER OF COUNCIL 2005**

2005 No.1625

1. This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description:

- 2.1 The Order approves Rules of the Health Professions Council (HPC) which provide for:

Term of office

- a. Terms of office of members of the HPC's Practice Committees to be fixed two year terms or to be aligned with terms of office of HPC members where appropriate. This provision is required as the second transitional period following the establishment of the HPC ends on 8 July 2005. This provision gives effect to paragraph 19 of Schedule 1 of the Health Professions Order 2001 (S.I. 2002/254) ("the HPO");

Procedural and fitness to practise changes: Practice Committees

- b. Fewer compulsory Practice Committee meetings balanced by the power to make unanimous resolutions in writing (including electronically), to improve efficiency of Committee business;
- c. The HPC and Registrar to be represented by a Presenting Officer in fitness to practise cases, who may (but need not) be a solicitor or counsel;
- d. All Practice Committees (the Investigating Committee, the Conduct and Competence Committee, and the Health Committee) to have the power to hear together two or more allegations against the same health professional and to hear together allegations against two or more health professionals, in both cases where it would be just to do so;
- e. The exclusion of disruptive persons from hearings;
- f. Measures designed to protect and support vulnerable witnesses during hearings.

These provisions are in accordance with paragraph 18 of Schedule 1 of the HPO, and with the requirements to make rules governing fitness to practise procedures in Articles 26(3) and 32 of the HPO;

Registration and Continuing Professional Development

- g. Removal of the forms required for the registration or renewal of registration process from the Registration rules, to give the HPC the ability and flexibility to redesign the forms without the need to make corresponding changes to the rules (for instance, to add guidance on completion of the forms). This will aid efficiency. This provision is made under Article 7 (2)(c) of the HPO;
- h. Requirements of continuing professional development (CPD) to be met by a health professional including the maintenance by the health professional of an appropriate record of CPD undertaken. This provision is in accordance with Article 19 of the HPO.

3. Matters of special interest to the Joint Committee on Statutory Instruments.

None.

4. Legislative Background:

4.1 Following an independent review of the regulation of allied health professions and some healthcare scientists, the Professions Supplementary to Medicine Act 1960 was replaced by the Health Professions Order 2001 (S.I. 2002/254) (the HPO) which was made under section 60 of the Health Act 1999. The regulatory body, the Council for Professions Supplementary to Medicine, was replaced by the Health Professions Council (HPC) which was established by the HPO in April 2002.

4.2 The HPC is the statutory regulator and regulates thirteen allied health and healthcare scientist professions by setting standards of practice, conduct and training, registering those who meet the standards and operating a fitness to practise system to deal with registrants whose fitness to practise is impaired, so as to protect the public from poor practitioners. The HPO requires the HPC to make rules to provide for registration, fitness to practise procedures, and for the function and composition of the HPC and the Practice Committees.

4.3 This Order is made in exercise of powers conferred by article 41(1) and other provisions mentioned above of the HPO.

5. Extent:

This Order applies to all of the United Kingdom.

6. European Convention on Human Rights

The Rt Hon Jane Kennedy Minister of State has made the following statement regarding human rights:

In my view the provisions of the Health Professions Council (Practice Committees and Registration) (Amendment) Rules Order of Council 2005 are compatible with the Convention rights.

7. Policy background

7.1 The policy intention of the parent Order, the Health Professions Order 2001 (S.I. 2002/254) (the HPO), was to provide a comprehensive system of professional regulation for the professions regulated by the Health Professions Council (HPC) to protect the public by ensuring that members of these professions are fit to practise. HPC's regulatory system has been running for almost two years.

7.2 The first change to HPC's statutory Rules of operation which this Order provides reflect necessary changes in the composition of the HPC as it moves from its transitional first two years to its maintenance state. Unless this change is enacted the HPC will be unable under its current Rules to populate its Practice Committees with Council members after 9 July 2005 when a newly-appointed Council begins its term of office. This would mean that fitness to practise cases involving members of these professions could no longer be lawfully investigated or heard, to the detriment of public safety.

7.3 Other changes update the HPC's regulatory practice in the light of experience to provide more efficient working. The move to reduce the number of compulsory Practice Committee meetings from four to two a year reflects the fact that HPC has sometimes had to hold meetings at which there was no business to transact, when the business had already been handled electronically. The removal of the application forms for registration and renewal of registration from the Rules themselves (replaced by a list of the information required in those forms) will make it easier and quicker to update the forms by including guidance on their completion without the need to make a further statutory Rule change in an Order similar to this one. Over 5,000 HPC registrants (out of 135,000) had difficulty completing HPC's registration renewal forms when they were first introduced, since their requirements differed from those of the predecessor regulatory body. The Order also gives provision for collecting information on registrants' continuing professional development (CPD) so that their continued fitness to practise may be demonstrated, in line with HPC's new requirements for CPD as part of renewal of registration in the interests of public safety.

7.4 The final set of changes adopt refinements to fitness to practise operational processes which have been successfully introduced by another healthcare regulator. By hearing two or more allegations together, by protecting vulnerable witnesses and by providing for the removal of disruptive persons, hearings will have potential to become more efficient, more consistent and fairer. Some cost will also be saved by allowing non-lawyers to present cases where appropriate.

7.5 The Rules are made by HPC, not the Department of Health. HPC conducted a 6-week public consultation on these Rule changes since the amendments proposed were minor. The consultation included registrants, the public, education providers and employers as well as Government departments with an interest. HPC had very few responses other than from the Department of Health and the Privy Council. Those responses concentrated on the presentation rather than the substance of the proposed changes, and all concerns were satisfactorily addressed in the final drafting of the Rules.

7.6 HPC had previously conducted a three month consultation with the same audience on their proposals for continuing professional development requirements. That consultation had concentrated on what CPD should consist of while the present Order provides for how information to demonstrate it should be collected.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

Rosalind Mead , Department of Health, 2N14 Quarry House, Quarry Hill, Leeds LS2 7UE. Telephone: 0113 2546129 (GTN 513 46129; e-mail address: Rosalind.Mead@dh.gsi.gov.uk can answer any queries regarding the instrument.