

**EXPLANATORY MEMORANDUM TO THE
GENERAL MEDICAL COUNCIL (LEGAL ASSESSORS) (AMENDMENT)
RULES 2005**

2005 No. 896

1. This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.
2. **Description**
 - 2.1 The General Medical Council (Legal Assessors) (Amendment) Rules 2005 amend the General Medical Council (Legal Assessors) Rules 2004 (S.I. 2004/2625) (“the principal Rules”).
 - 2.2 The principal Rules provide for legal assessors to attend certain meetings and hearings of the General Medical Council’s Investigation Committee, Interim Orders Panel or a Fitness to Practise Panel and contain measures relating to the tendering of advice by them at such meetings and hearings. The Rules amend the principal Rules by adding “Registration Appeals Panel” to the definition of “Panel” in article 1(2) of those Rules, bringing Registration Appeals Panels within the ambit of the Rules relating to legal assessors.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative background**
 - 4.1 The General Medical Council (“GMC”) is required by paragraph 7(1) of Schedule 4 of the Medical Act 1983 (as substituted by article 14 of S.I. 2002/3135) to appoint legal assessors to advise the Investigation Committee, an Interim Orders Panel and a Fitness to Practise Panel. Paragraph 4(7) of Schedule 3A to the Medical Act 1983 provides that paragraph 7 also applies to proceedings before a Registration Appeals Panel.
 - 4.2 These Rules are made by the Lord Chancellor, and in relation to proceedings in Scotland, the Secretary of State, in exercise of the powers conferred upon them by paragraph 7(3) and (4) of Schedule 4 to the Medical Act 1983 (as substituted by article 14 of S.I. 2002/3135). However, policy responsibility lies with the Department of Health.
5. **Extent**
 - 5.1 This instrument applies to the United Kingdom.

6. European Convention on Human Rights

6.1 N/A

7. Policy background

7.1 In May 2000, after several years of incremental change, the GMC began to develop wide ranging proposals to make it effective, inclusive and accountable. This review included proposals for modernising its fitness to practise procedures - the system through which concerns about a doctor's suitability to practise are investigated and adjudicated. This also occurred within the context of the Government establishing new regulatory councils for nursing and midwifery and the allied health professions.

7.2 The GMC consulted with patient and consumer groups, doctors, employers and a wide range of other organisations with an interest in reform, producing wide agreement between patient and professional interests. In July 2001, the Council agreed a package of constitutional and regulatory reforms and in November 2001 it agreed a further package of reforms to its fitness to practise procedures.

7.3 The Government welcomed these proposals as consistent with its overall aim of setting up a modern, comprehensive regulatory framework, with all regulatory bodies of the healthcare professions:

- Having as their main objective the need to safeguard the health and well-being of persons using the services of registrants;
- Being open and transparent in their procedures and requirements; and
- Having fair and fast decision making processes.

7.4 In May 2002 the Government launched a statutory consultation on a draft GMC Order to reform and modernise the GMC. The document contained proposals for radical reform in three key areas:

- Reform of the structure, constitution and governance of the GMC delivering a smaller, more effective and accountable Council with an increased proportion of lay members;
- A fundamental restructuring of the GMC's fitness to practise framework, to deliver more efficient and simplified procedures; and
- The implementation of revalidation, coupled with the introduction of a licence to practise, which will demonstrate that doctors are keeping themselves up to date.

7.5 There were around 70 consultation responses received, which was fewer than anticipated. However, a number of organisations said they had made their points during the earlier GMC consultation. A summary of the responses was published by the Department of Health in November 2002 when the revised Order was laid before Parliament. Copies are available in the Libraries of both Houses of Parliament.

- 7.6** In addition, in producing the new Fitness to Practise procedures, the GMC held 2 public consultations on the new procedures and guidance: the first between July and October 2003 and the second during May 2004.
- 7.7** The amending Rules which are the subject of this memorandum form part of a package of fundamental changes to the GMC's structure and functions. The Medical Act 1983 was substantially amended by the Medical Act 1983 (Amendment) Order 2002 (S.I. 2002/3135) ("the 2002 Order"), the provisions of which have been brought into force over a period of time.
- 7.8** The 2002 Order amends the Medical Act 1983 to provide for Registration Appeals Panels and the provisions in the 2002 Order that so amend the Medical Act 1983 will also be brought into force for 1st April 2005. This necessitates the amendment to the principal Rules made by the Rules.

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.
- 8.2.** There are no identified costs to either the public or the Exchequer arising from this Instrument. The GMC appoints and pays legal assessors. The cost of regulation is met from registrants' fees, which the GMC is authorised to charge for this purpose.

9. Contact

Bob Travers or Paul Atkinson at the Department of Health (telephone: 0113 254 6918/ 254 5311 or e-mail: Bob.Travers@dh.gsi.gov.uk / paul.atkinson@dh.gsi.gov.uk) and Duncan Ruddy at the Department for Constitutional Affairs (telephone 020 7210 0674 or email: duncan.ruddy@dca.gsi.gov.uk) can answer any queries regarding the instrument.