

**EXPLANATORY MEMORANDUM TO**  
**THE HEALTH AND CARE PROFESSIONS COUNCIL (REGISTRATION AND FEES) (AMENDMENT) RULES ORDER OF COUNCIL 2015**  
**2015 No. 93**

1. This explanatory memorandum has been prepared by The Department of Health and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
  - 2.1 The Order approves Rules made by The Health and Care Professions Council (the “HCPC”), which amend the Health and Care Professions Council (Registration and Fees) Rules 2003.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 In July 2014, legislation was introduced which means that all practising healthcare professionals should have appropriate indemnity arrangements in place as a condition of their registration with their regulator.
  - 3.2 The HCPC are making amendments to the Health and Care Professions Council (Registration and Fees) Rules 2003. These amendments are about implementing the statutory requirement for their registrants (other than social workers) to have a professional indemnity arrangement in place as a condition of their registration.
  - 3.3 The amendments mean that the HCPC will be able to ask registrants and applicants to complete declarations and provide information about their professional indemnity arrangements. They will also be able to take appropriate action where a registrant does not have a professional indemnity arrangement in place or one which did not provide appropriate cover, or where a registrant failed to provide information when required to do so.
4. **Legislative Context**
  - 4.1 The HCPC are empowered to make these rule amendments as set out by the Health Care and Associated Professions (Indemnity Arrangements Order 2014, which came into force on 17 July 2014.
5. **Territorial Extent and Application**
  - 5.1 This instrument extends to all of the United Kingdom (UK).
6. **European Convention on Human Rights**
  - 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.
7. **Policy background**

- 7.1 The HCPC are empowered to make these rule amendments as set out by the Health Care and Associated Professions (Indemnity Arrangements) Order 2014, which came into force on 17 July 2014. This Order implemented the Finlay Scott review recommendations and Article 4(2)(d) of Directive 2011/24/EC of the European Parliament and of the Council on the application of patients' rights in cross-border healthcare ("the Directive").
- 7.2 The four UK Health Departments accepted the recommendations of the Finlay Scott review which recommended that all regulated healthcare professionals should be required to hold insurance or indemnity as a condition of their registration (and in the case of medical practitioners, a licence to practise) when carrying out work as a regulated healthcare professional. We have therefore been committed to requiring all regulated healthcare professionals to hold indemnity or insurance for some time. The EU Directive reinforced that direction of travel and committed us to legislate.
- 7.3 The purpose of the policy is to ensure that people have access to appropriate redress in the unlikely event that they are negligently harmed during the course of their care. Everyone should have this by right, and the overwhelming majority of regulated healthcare professionals will be unaffected by the proposals because they are already indemnified through personal cover or cover provided by their employers.
- 7.4 The Health Care and Associated Professions (Indemnity Arrangements) Order 2014 makes provision that all practising regulated healthcare professionals to hold an insurance or indemnity arrangement as a condition of their registration (and in the case of medical practitioners, a licence to practise) with the relevant regulatory body.
- 7.5 It should be noted that:
- The vast majority of regulated healthcare professionals are in receipt of cover by virtue of their employer's liability, or via a professional body which offers an indemnity arrangement as a benefit of membership.
  - It will be for individual healthcare professionals to assure themselves that appropriate cover is in place for all the work they undertake. Unless healthcare professionals who are or intend to practise can demonstrate to the satisfaction of the regulatory bodies that such arrangements are (or will be) in place they will be unable to be registered as a healthcare professional and so will be unable to practise.
- 7.6 In order to implement the professional indemnity requirement fully, the HCPC need to amend the Health and Care Professions Council (Registration and Fees) Rules 2003. To enable them to ask registrants and applicants to complete declarations about their professional indemnity arrangements, linked to the registration renewal cycle. So a registrant or applicant who was unable to complete the required declaration would be unable to renew their registration or become registered with the HCPC. The HCPC will also be able to take appropriate action where a registrant did not have a professional indemnity arrangement in place, or where a professional indemnity arrangement does not provide appropriate cover.

## **8. Consultation outcome**

- 8.1 The HCPC carried out a public consultation between 26 September 2014 and 31 October 2014. The consultation document is available on the HCPC's website (<http://www.hcpc-uk.org/aboutus/consultations/closed/index.asp?id=176>).<sup>1</sup>
- 8.2 The HCPC received 32 responses to the consultation. The draft Rules were overall positively received. Comments made by respondents included how will the HCPC check compliance with the requirement to have appropriate cover, including the notice period in which to require information set out in the Rules. Other comments were about matters which the HCPC has addressed in separate guidance. The HCPC Council considered the comments in the consultation and agreed the Rules as proposed without any significant amendments.

## **9. Guidance**

- 9.1 The HCPC has already issued guidance on the requirement to have a professional indemnity arrangement in place as a condition of registration (this does not apply to social workers in England) – Professional indemnity and your registration. The HCPC will also be updating its guidance for applicants applying for, or renewing their, registration.

## **10. Impact**

- 10.1 The HCPC have confirmed that there is no ongoing cost impact to report, there will be some costs to implement for the HCPC but no significant ongoing costs for its registrants.
- 10.2 Additionally there are no additional impacts to report on particular groups on the basis of equality.

## **11. Regulating small business**

- 11.1 The legislation does not directly apply to small business, the changes that it brings about relate to the individual rather than business.

## **12. Monitoring & review**

- 12.1 The HCPC will keep the Rules being amended by this legislation under on-going review.

## **13. Contact**

- 13.1 Lindsey Proctor at the Department of Health Tel: 0113 2545811 or email: [lindsey.proctor@dh.gsi.gov.uk](mailto:lindsey.proctor@dh.gsi.gov.uk) can answer any queries regarding the instrument.

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<sup>1</sup> Please contact HCPC directly for a hard copy of the consultation document. Tel: 0845 3004 472