

**EXPLANATORY MEMORANDUM TO**  
**THE HEALTH AND CARE PROFESSIONS COUNCIL (MISCELLANEOUS**  
**AMENDMENTS) RULES ORDER OF COUNCIL 2016**

**2016 No. 693**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by Department of Health and is laid before Parliament by Command of Her Majesty. This Order is being simultaneously laid before the Scottish Parliament.

**2. Purpose of the instrument**

- 2.1 This Order approves the Health and Care Professions Council (Miscellaneous Amendments) Rules (the “Rules”) made by the Health and Care Professions Council (the “HCPC”). The Rules amend other sets of rules which primarily relate the rules on registration of, and payment of fees by, members of the relevant professions regulated by the HCPC.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 None.

*Other matters of interest to the House of Commons*

- 3.2 As this instrument is subject to the negative resolution and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

**4. Legislative Context**

- 4.1 The Health and Care Professions Order 2001 (2002/254) is the framework legislation which contains the powers for the HCPC to make rules which have to be approved by the Privy Council. The Rules scheduled to this Order make amendments to the following HCPC Rules:

- The Health and Care Professions Council (Registration and Fees) Rules 2003 (SI 2003/1572);
- The Health Professions Council (Investigating Committee) (Procedure) Rules 2003 (SI 2003/1574);
- The Health Professions Council (Conduct and Competence Committee) (Procedure) Rules 2003 (SI 2003/1575); and
- The Health Professions Council (Health Committee) (Procedure) Rules 2003 (SI 2003/1576).

- 4.2 Amending the four rules above will allow the HCPC to:

- improve the range of online services for applicants and registrants
- replace the character reference requirement for applicants with a self-declaration

- allow panel Chairs to give directions about the case management of fitness to practise cases without the need for a preliminary hearing.

## **5. Extent and Territorial Application**

5.1 This order applies to the whole of the United Kingdom

## **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 HCPC are improving the range of online services for applicants and registrants as part of delivering their 'Registration transformation and improvement project'. This project will improve the delivery of their registration function, underpinned by a new IT system. As part of this project, the HCPC are looking at current ways of working and how they can improve the quality of their work and the customer service they provide to registrants and applicants.

7.2 The amendments to Registration and Fees Rules will allow the HCPC to communicate with applicants and registrants via electronic means, and allow the HCPC to introduce an online application facility for applicants in the future.

7.3 In 2010 the HCPC introduced an online facility for renewals of registration, and the majority of registrants choose to renew in this way. Online renewal has benefits for registrants, allowing them renew quickly and easily with instant confirmation of their continued registration and the HCPC want to achieve similar benefits by introducing online applications.

7.4 In addition, a character reference will no longer be required as part of the application for registration. Instead, the HCPC will require a declaration from the applicant.

7.5 Under the Health and Social Work Professions Order 2001, the HCPC are required to ensure that applicants for registration are of 'good character'. One of the ways in which they have previously done this is by obtaining a reference from applicants applying for admission or readmission to the Register. The reference had to be signed by someone who has known the applicant for at least three years and who has a professional standing in the community.

7.6 The HCPC do not consider that the current requirement for a character reference adds any value to their role and want to eliminate unnecessary paperwork in the registration process.

7.7 In 2011, Rules were amended to introduce a self-declaration for an applicant's health, replacing a previous requirement for a health reference from a doctor. The health reference requirement was removed as it was considered to be disproportionate and acted as an unnecessary barrier to registration. The HCPC's proposal to remove the character reference is consistent with this approach. This instrument amends the HCPC's rules so that they can replace the reference requirement with a self-declaration.

7.8 Finally, HCPC are proposing a small amendment to the Practice Committee Rules.

7.9 Under the new rules, the Chairs of the HCPC fitness to practise panels will be able to give directions to deal with matters such as changing the location of a hearing or

making decisions about timescales for the exchange of documentation, without the need for a preliminary hearing.

- 7.10 This change would not replace or remove the ability of the parties to request a preliminary hearing, nor the existing power of the Chair to determine that such a hearing is necessary.

### ***Consolidation***

- 7.11 The HPC has no plans formally to consolidate the principal Rules but it does make informal consolidated versions of all its rules, including the registration and Fees Rules, available free of charge on its website ([www.hpc-uk.org](http://www.hpc-uk.org)).

## **8. Consultation outcome**

- 8.1 The HCPC consulted on proposed amendments to the Registration Fees Rules and Practice Committee Rules between 5<sup>th</sup> October 2015 and 15<sup>th</sup> January 2016.
- 8.2 A range of stakeholders were informed about the consultation, including professional bodies and employers and information regarding the consultation was published on the HCPC website, social media and in the HCPC newsletter.
- 8.3 The HCPC received 103 responses to the consultation, of which: 90 responses were made by individuals and 13 were made on behalf of organisations (six were professional bodies and three were employers)
- 8.4 The vast majority of respondents (85%) agreed with the proposal regarding electronic communication, many considered it would make the registration process quicker and easier. For those that disagreed with the proposal, their concerns included data security and verification of addresses.
- 8.5 The majority of respondents (62%) agreed that the HCPC should remove the requirement for a character reference and replace it with a self-declaration. Several of the respondents considered that character references achieved little to prove applicants are of good character and others agreed the proposal would make registration more efficient. However, 24% of respondents did not agree with this proposal, with a number voicing concerns that this may enable unsuitable individuals to become registered. The remaining respondents partly agreed or were unsure.
- 8.6 The majority of respondents (64%) agreed with the proposal on the amendments to the Practice Committee rules. 11% of respondents disagreed with the proposal on the basis that it may prevent hearings from being fair and consistent, the remaining respondents partly agreed or were unsure.

## **9. Guidance**

- 9.1 None.

## **10. Impact**

- 10.1 The impact on business, charities or voluntary bodies is minimal. The amendments may have a slight impact on registrants with businesses, however the change has no burden on costs and the amendments are viewed as a benefit.
- 10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument because the potential impact on business foreseen falls below the threshold for producing one.

**11. Regulating small business**

11.1 The legislation applies to activities that are undertaken by small businesses.

11.2 No specific action is proposed to minimise regulatory burdens on small businesses.

11.3 No mitigating action is proposed as the change has no burden on costs and the amendments are viewed as a benefit.

**12. Monitoring & review**

12.1 The HCPC regularly reviews its Rules; there is no requirement for a formal review of the amendments.

**13. Contact**

13.1 Professional Standards Branch at Department of Health Telephone: 0113 254 6315 or email: [RegulationsPQSharedMailbox@dh.gsi.gov.uk](mailto:RegulationsPQSharedMailbox@dh.gsi.gov.uk) can answer any queries regarding the instrument.