

EXPLANATORY MEMORANDUM

THE GENERAL CHIROPRACTIC COUNCIL (REGISTRATION OF CHIROPRACTORS WITH UNITED KINGDOM QUALIFICATIONS THAT ARE NOT RECOGNISED QUALIFICATIONS) RULES ORDER OF COUNCIL 2009

2009 No. 27

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 Rules (“the 2009 Rules”) approved by this Order of the Privy Council provide new powers to allow the General Chiropractic Council (GCC) to accept, for a limited period, applications for registration from some chiropractors who possess older qualifications which are not presently recognised by the GCC. This transitional process, known as ‘grandparenting’, allows for a widening of the class of chiropractors who are registered with the GCC.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative Context**
 - 4.1 The Chiropractors Act 1994 (“the 1994 Act”) introduced into the United Kingdom for the first time a system of statutory registration of chiropractors. That system is predicated on the basis that access to the statutory register of chiropractors will be limited to individuals with recognised qualifications in chiropractic. Responsibility for recognition of qualifications rests with the GCC, under section 14 of the 1994 Act, although recognition of qualifications is subject to the approval of the Privy Council.
 - 4.2 Recognition of qualifications is predicated on the GCC being satisfied that the qualification is evidence of an individual having reached the required standard of proficiency – and these standards are also determined by the GCC, under section 13 of the 1994 Act. The criteria that GCC operates for the recognition of Degrees in Chiropractic have been agreed with the current UK providers of chiropractic education. These criteria are reviewed on a regular basis. Applicants for registration must also satisfy the Registrar that they are of good character and physically and mentally fit.

- 4.3 However, significant numbers of individuals who qualified in chiropractic in the United Kingdom before the opening of the statutory register had qualifications that were not evidence of the standards of proficiency that the GCC set when it was established.
- 4.4 For a transitional period of two years, these people with older qualifications that could not be recognised by the GCC were given the opportunity to be admitted to the GCC register through a process known as ‘grandparenting’. Their level of qualification was assessed, and generally applicants were allowed onto the register after satisfactory completion of a test of competence. Applications to take part in this process had to be made before 15th June 2001.
- 4.5 Since then, the ‘grandparenting’ route has not been available to individuals with older United Kingdom qualifications that have not been recognised by the GCC. However, amendments were made to the 1994 Act by the Health Care and Associated Professions (Miscellaneous Amendments) Order 2008 (SI 2008/1774: “the 2008 Order”) which allowed the GCC to make rules which would enable them, once again, to admit chiropractors with these older qualifications to the statutory register, in prescribed circumstances.

5. Territorial Extent and Application

- 5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

- 6.1 As this instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- ***What is being done and why***

- 7.1 The White Paper *Trust, Assurance and Safety* put forward a number of reforms to the United Kingdom’s system for the regulation of health care professionals. It proposed a number of changes to the constitutional arrangements for the Health Professions’ Regulators, such as the GCC. A number of these reforms were taken forward in the 2008 Order. In the course of discussions over the content of that Order, the GCC made representations to the Department of Health seeking an amendment to the 1994 Act that would allow them to undertake further ‘grandparenting’. A number of individuals missed out on ‘grandparenting’ during the transitional period, the most common reason for that being that they were practising overseas during the transitional period.
- 7.2 The Department agreed to accede to the GCC’s request, but with caveats. The final list of these, given in the 2008 Order, is that second

phase of ‘grandparenting’ will apply only to individuals who qualified and started practising before the first phase of ‘grandparenting’ came to an end, will not be open to anyone who has practised as a chiropractor in the United Kingdom since then, and will be open only to individuals who have a good reason for not having made a successful application for ‘grandparenting’ before – for example, because they were working overseas – and who can demonstrate that they are capable of the competent and safe practice of chiropractic.

- 7.3 The GCC has been concerned, particularly, that applicants from overseas who were not relying on European free movement rights and who had foreign qualifications (‘third country applicants’) were being admitted to the statutory register, following a test of competence, whereas applicants from the same third country who had an older United Kingdom qualification and who were returning to the United Kingdom were effectively barred from practising in the United Kingdom unless they re-qualified.
- 7.4 The requirements in the 2009 Rules have been largely modelled on the requirements imposed on third country applicants, which are set out in the General Chiropractic Council (Registration of Chiropractors with Foreign Qualifications) Rules 2002 (Scheduled to S.I. 2002/2704). The central requirement is a test of competence. This is in order to ensure public protection when widening the scope of registrants and ensures that people are admitted to the statutory register only if they are able to satisfy the Registrar that they are capable, competent, and able to practice safely.

- ***Consolidation***

- 7.5 The 2009 Rules are a self-standing set and there are no plans to consolidate them into a larger set with other provisions.

8. Consultation outcome

- 8.1 The GCC, in agreement with the Department, have not consulted on the 2009 Rules themselves, but the policy underpinning the 2009 Rules was consulted upon as part of the consultation exercise on the 2008 Order. Most respondents (59%) supported the proposals and just one respondent responding on this point disagreed. However, there were concerns about the requirement in the original proposals for a chiropractor to have practised for a period of at least three years outside the United Kingdom. Concerns were also expressed about the proposed open-ended nature of the provisions. The final version of the 2008 Order was amended to reflect these concerns. Applications under the 2009 Rules must now be made before 1st January 2011 and no time limits are now given in relation to the period for which the applicants must have been practising.

9. Guidance

9.1 The Department of Health has not issued any guidance in relation to this Order.

10. Impact

10.1 There is minimal impact on business, charities or voluntary bodies. The Council itself is subject to the GCCs Race Equality scheme that affords protection of equality and diversity within the chiropractic profession. This provides the necessary safeguards to ensure that there is no negative impact on equality issues.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 This legislation will be subject to internal review, within the Department of Health, before the last date for applications under the 'grandparenting' procedure, which will be 1st January 2011.

13. Contact

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