EXPLANATORY MEMORANDUM TO

THE GENERAL MEDICAL COUNCIL (MISCELLANEOUS AMENDMENTS) ORDER OF COUNCIL 2024

2024 No. 1133

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department of Health and Social Care (DHSC) and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Karin Smyth Minister of State for Department of Health and Social Care confirms that this Explanatory Memorandum meets the required standard.

2.2 Phil Harper, Deputy Director, Professional Standards and International Workforce, DHSC, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Fran Innes at the DHSC Telephone: 0113 254 5384 or email: psiw@dhsc.gov.uk can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The General Medical Council (Miscellaneous Amendments) Order of Council 2024 gives Privy Council approval of the General Medical Council (GMC) Rules contained in the Schedule. The Order approves technical amendments to existing GMC Rules to enable only registered doctors (and not physician associates (PAs) or anaesthesia associates (AAs)) to sit as registrant members on fitness to practise panels in relation to regulatory decisions and tribunals concerning doctors. The purpose of specifying this in Rules is to ensure that panel members have the necessary skills and experience to make decisions.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument is England and Wales, Scotland and Northern Ireland

5. Policy Context

What is being done and why?

5.1 In preparation for the Anaesthesia Associates and Physician Associates Order[1] ("AAPA Order") (S.I. 2024/374) coming into force on 13th December 2024, which brings AAs and PAs into regulation by the GMC, amendments are needed to existing GMC Rules to clarify who can sit as a registrant member on fitness to practise panels relating to doctors. The amendments will ensure that only doctors are able to sit on

[1] The Anaesthesia Associates and Physician Associates Order 2024 (legislation.gov.uk) - https://www.legislation.gov.uk/ukdsi/2024/9780348255195/schedule/4

fitness to practise panels and make decisions where there are concerns about a doctor's fitness to practise.

5.2 Suitably qualified and experienced medical professionals can be called upon to participate in medical hearings by the Medical Practitioners Tribunal Service (MPTS). The purpose of the hearings is to make independent decisions about whether doctors are fit to practise in the UK. Tribunals can put conditions on a doctor's practise or stop them from working in the UK.

5.3 The purpose of this amendment is to ensure that panel members have the necessary skills and experience to make decisions and is crucial to maintaining the integrity of the fitness to practise decisions and protecting the public.

What was the previous policy, how is this different?

5.4 The policy that registered doctors sit as registrant members on fitness to practise panels considering concerns about a medical practitioner has not changed. However, without the amendments to the Rules, registered AAs and PAs could sit as registrant members on fitness to practise panels considering concerns about a medical practitioner. This would not be appropriate, and they would not have the necessary skills to carry out the role.

6. Legislative and Legal Context

How has the law changed?

6.1 The technical amendments to the Rules will ensure that the legislation continues to reflect the policy intent that only registered doctors can sit as registrant members on fitness to practise panels concerning doctors when the AAPA Order comes into force on 13th December 2024.

Why was this approach taken to change the law?

6.2 To enable only registered doctors to sit as registrant members on fitness to practise panels considering concerns about a medical practitioner. Without this change, registered AAs and PAs would be allowed to carry out this role AAPA Order coming into force.

7. Consultation

Summary of consultation outcome and methodology

7.1 As part of the previous Government's response to the consultation 'Regulating healthcare professionals protecting the public[2]' we confirmed that the GMC will be able to set Rules in relation to the criteria that people need to meet to be able to sit on a fitness to practise panel for AAs and PAs. The response also confirmed that a registered associate will not be permitted to sit as a registrant member on a Medical Practitioners Tribunal (a panel that is making a determination on a doctor's fitness to practise) or on an Interim Orders Tribunal (a panel that is determining whether an interim order should be imposed on a doctor).

[2] Regulating healthcare professionals, protecting the public: consultation response - analysis (publishing.service.gov.uk) - https://assets.publishing.service.gov.uk/media/63ee19508fa8f56139fc0c96/Regulating-healthcare-professionals-protecting-the-public-consultation-response-analysis.pdf

7.2 The UK Parliament is responsible for the regulation of healthcare professions in England and Wales. Regulation of health and care professionals is a transferred matter in Northern Ireland. In Scotland it is devolved for healthcare professionals who entered regulation after the passing of the Scotland Act 1998 (c. 46). The legislation relates to ensuring PAs and AAs cannot be considered registrants in relation to regulatory decisions concerning doctors, rather than regulatory matters relating to AAs or PAs, and therefore does not require Scottish Parliament approval.

8. Applicable Guidance

8.1 Guidance which may be required in relation to the powers and duties in this instrument will be issued by the GMC.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because the SI relates to the maintenance of existing regulatory standards.

Impact on businesses, charities and voluntary bodies

9.2 No significant, impact on business, charities or voluntary bodies because the SI relates to maintenance of existing regulatory standards.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no impact on the public sector because the SI is a technical amendment to ensure that existing legislation in relation to fitness to practise decisions for doctors is not impacted by the introduction of the AAPAO legislation coming into force.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is to carry out an internal review of the impact of the legislation on business after 5 years.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").