EXPLANATORY MEMORANDUM TO

THE GENERAL MEDICAL COUNCIL (REGISTRATION APPEALS PANELS PROCEDURE) (AMENDMENT) RULES ORDER OF COUNCIL 2024

2024 No. 1351

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.

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

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

2.2 Philip Harper, Deputy Director for Professional Standards and International Workforce, at the Department of Health and Social Care confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Rosie Ettridge at the Department of Health and Social Care - Telephone: 0113 254 5159 or email: Rosamond.ettridge@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 This Order approves and gives effect to amendments to the General Medical Council (Registration Appeals Panels Procedure) Rules 2010 ('the 2010 Rules'), relating to appeals following an application to join the General Medical Council's General Practitioner (GP) or Specialist Registers.

4.2 The amendments will ensure that the requisite period within which the General Medical Council ('GMC') must provide its registration decision to applicants whose qualifications were obtained in Norway, Iceland or Liechtenstein ('the EEA EFTA states'), after which an appeal right arises, reflects the period set down in The Recognition of Professional Qualifications and Implementation of International Recognition Agreements (Amendment) Regulations 2023 (S.I. 2023/1286) ('the RPQ Regulations'). The RPQ Regulations implement the recognition of professional qualifications provisions of the Free Trade Agreement ('FTA') signed by the UK and the EEA EFTA states in 2021.

Where does the legislation extend to, and apply?

4.3 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. Policy Context

What is being done and why?

5.1 The 2010 Rules are being amended to ensure GMC processes are compliant with the RPQ Regulations introduced by DBT at the end of 2023 to implement the recognition of professional qualifications provisions of the FTA.

What was the previous policy, how is this different?

5.2 The 2010 Rules set out the procedure to be followed when determining an appeal by a person against the decisions specified in Schedule 3A to the Medical Act 1983 (c. 54), including decisions following an application for inclusion within the GMC's GP or Specialist Registers. Rule 3 of the 2010 Rules provides for the requisite periods within which the GMC must notify an applicant to the GP or Specialist Registers of its registration decision, after which an appeal right arises for the applicant.

5.3 The 2010 Rules had to be amended to ensure the requisite period within which the GMC must provide its registration decision to EEA EFTA-qualified professionals applying to join these registers, after which an appeal right arises, reflects the period set down in the RPQ Regulations.

5.4 This change will ensure the 2010 Rules allow for an appeal right to arise for EEA EFTA-qualified applicants where the GMC has failed to provide a decision on the application within four months, as specified in the RPQ Regulations.

6. Legislative and Legal Context

How has the law changed?

6.1 In 2021 the UK signed an FTA with the EEA EFTA states. Chapter 12 of the FTA includes a system for the recognition of professional qualifications, under which UK regulators, including healthcare professional regulators, are required to recognise comparable professional qualifications obtained in the EEA EFTA states.

6.2 Chapter 12 of the FTA was implemented via the RPQ Regulations, introduced by the Department for Business and Trade (DBT) and made by Parliament in 2023.

6.3 Parts 2 and 3 of the RPQ Regulations implement the FTA for applications received to the GMC's GP and Specialist Registers, including Regulation 12, which specifies rights of appeal which must be provided to applicants by a regulator, and Regulation 10 which specifies the period within which a regulator must provide its decision in respect of an application.

6.4 This Order approves and gives effect to the General Medical Council (Registration Appeals Panels Procedure) (Amendment) Rules 2024 ('the Amendment Rules') which amend the 2010 Rules. The 2010 Rules set out the procedure to be followed when determining an appeal by a person against the decisions specified in Schedule 3A to the Medical Act 1983 (c. 54), including decisions following an application for inclusion within the GMC's GP or Specialist Registers. Rule 3 of the 2010 Rules provides for the requisite periods within which the GMC must notify an applicant to the GP or Specialist Registers of its registration decision, after which an appeal right arises for the applicant.

6.5 The Amendment Rules add the requisite period within which the GMC must notify EEA EFTA qualified applicants to the GP Register or Specialist Register of its registration decision, after which an appeal right arises.

Why was this approach taken to change the law?

6.6 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 The RPQ Regulations came into force on 1st December 2023. In accordance with section 15 of the Professional Qualifications Act 2022, professional regulators likely to be affected by the RPQ Regulations were consulted on that legislation. The Devolved Administrations were also consulted and the government published the report on the consultation on 13th October 2023[1] - Report on the consultation of the devolved administrations on regulations under the Professional Qualifications Act 2022.

7.2 As this Order is being made to ensure the 2010 Rules align with the RPQ Regulations, no additional formal consultation was carried out. DHSC has worked closely with colleagues at the GMC to understand the changes needed to the 2010 Rules to ensure they reflect the requirements for EEA EFTA-qualified applicants set down in the RPQ Regulations. The GMC is content with the Order, having had the opportunity to review and provide feedback throughout the drafting process.

8. Applicable Guidance

8.1 DHSC has not issued any guidance in relation to this Order.

8.2 These Rules relate to GMC appeals processes, any relevant guidance will be produced 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 purpose of this Order is to ensure GMC processes are aligned with the existing legislative requirements introduced by the RPQ Regulations. The number of professionals likely to be impacted by the change is also considered to be very low.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the number of professionals likely to be impacted by the change is also considered to be very low.

9.3 There is no, or no significant, impact on the public sector because the number of professionals likely to be impacted by the change is also considered to be very low.

[1] https://www.gov.uk/government/publications/consultation-on-eea-efta-professional-qualifications-implementation/report-on-the-consultation-of-the-devolved-administrations-on-regulations-under-the-professional-qualifications-act-2022-to-implement-the-recognition.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring of this legislation is that DHSC will continue to work with the GMC to ensure the 2010 Rules are updated as and when required.

10.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015 Minister Karin Smyth has made the following statement:

"In my view, I consider that any organisations incurring costs are "controlled by a public authority" in their capacity as a regulator, meaning this is not considered "qualifying activity" under Section 29 of the Small Business, Enterprise and Employment Act 2015."

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 A further Order is being laid for the purpose of ensuring that GMC evidential requirements for professionals applying to the GP and Specialist Registers are compliant with the RPQ Regulations; The General Medical Council (Applications for General Practice and Specialist Registration) (Amendment) Regulations Order of Council 2024. This may be a matter of interest to the Secondary Legislation Scrutiny Committee.

12. European Convention on Human Rights

12.1 The Minister of State has made the following statement regarding Human Rights:

In my view the provisions of The General Medical Council (Registration Appeals Panels Procedure) (Amendment) Rules Order of Council 2024 are compatible with the Convention rights.

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").