EXPLANATORY MEMORANDUM TO

THE GENERAL PHARMACEUTICAL COUNCIL (AMENDMENT) RULES ORDER OF COUNCIL 2022

2022 No. 697

1. Introduction

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

2. Purpose of the instrument

2.1 This S.I will allow the Appeals and Fitness to Practise Committees of the General Pharmaceutical Council (GPhC) to hold meetings or hearings using audio and/or video conferencing facilities on a permanent basis. In addition, in person meetings and hearings will also continue to be available.

2.2 This S.I is made under the Pharmacy Order 2010 amending the rules contained in the General Pharmaceutical (Appeals Committee) Rules 2010 (as contained in the Schedule to the General Pharmaceutical Council (Appeals Committee Rules) Order of Council 2010 (S.I. 2010/1614)) and the General Pharmaceutical Council (Fitness to Practise and Disqualification etc.) Rules 2010 (as contained in the Schedule to the General Pharmaceutical Council (Fitness to Practise and Disqualification etc. Rules) Order of Council 2010 (S.I. 2010/1615)).

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The territorial extent of this instrument is Great Britain.

4.2 The territorial application of this instrument is Great Britain.

5. European Convention on Human Rights

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

6. Legislative Context

6.1 This instrument is being made in accordance with the GPhC's powers, as set out in the Pharmacy Order 2010, to make rules in accordance with its core regulatory functions.

7. Policy background

What is being done and why?

7.1 The Appeals and Fitness to Practise committees of the GPhC can only hold in-person hearings. This S.I will allow the committees to hold hearings and meetings using

audio and/or video conferencing facilities on a permanent basis. In addition, in person meetings and hearings will also continue to be available.

Explanations

What did any law do before the changes to be made by this instrument?

7.2 The GPhC's current rules state that its Appeals and Fitness to Practise Committees must hold in-person hearings.

Why is it being changed?

7.3 During the Covid-19 emergency period, the GPhC made temporary rules changes (S.I 2021/26) which allowed its Appeals and Fitness to Practise committees to hold hearings and meetings using audio and/or video conferencing facilities on a temporary basis. These temporary rules changes expired on 1 May 2021. The GPhC has found that holding hearings by audio and/or video conference has offered greater flexibility and is cost effective. There have been advantages for both the GPhC and its registrants such as cost and time savings.

What will it now do?

7.4 This S.I will allow the Appeals and Fitness to Practise Committees of the GPhC to hold meetings or hearings using audio and/or video conferencing facilities on a permanent basis. In addition, in person meetings and hearings will also continue to be available.

8. European Union Withdrawal and Future Relationship

8.1 This instrument does not relate to withdrawal from the European Union / trigger the statement requirements under the European Union (Withdrawal) Act.

9. Consolidation

9.1 The GPhC will publish a consolidated version of the legislation on its website.

10. Consultation outcome

10.1 The GPhC ran a 12 week stakeholder consultation between 16 November 2021 and 8 February 2022 on its proposal to hold virtual hearings on a permanent basis. The GPhC delivered its consultation through a consultation survey which received 481 responses: 460 from individuals and 21 on behalf of an organisation. The GPhC also received 2 responses from organisations writing more generally about their views, bringing the total number of respondents to 483. In addition, the GPhC also carried out a survey of its online public panel members. This was open from 11 January to 8 February 2022 and received a total of 148 responses.

10.2 The responses to the GPhC's consultation were broadly supportive of the GPhC's proposed rules changes. The GPhC's consultation analysis is available at https://www.pharmacyregulation.org/sites/default/files/document/gphc-remote-hearings-consultation-report-may-2022.pdf

11. Guidance

11.1 To enable consistency of decision-making, when holding virtual hearings during the covid-19 emergency period, the GPhC produced interim guidance on virtual hearings which is available on its website. Please see: Remote hearings during the pandemic:

Guidance on how to ensure a case is suitable for a remote hearing - November 2020 | General Pharmaceutical Council (pharmacyregulation.org)

11.2 The GPhC plans to update this guidance to accompany its permanent rules changes. The revised guidance will be available on its website shortly.

12. Impact

12.1 There is no impact on business, charities or voluntary bodies.

12.2 There is no impact on the public sector.

12.3 An Equality Impact Assessment has been published on the GPhC's website. Please see https://www.pharmacyregulation.org/sites/default/files/document/gphc-remote-hearings-consultation-equality-impact-analysis-may-2022.pdf

13. Regulating small business

13.1 The legislation does not apply to activities that are undertaken by small businesses.

14. Monitoring & review

14.1 The approach to monitoring of this legislation is that the GPhC will keep its rules under review.

14.2 The instrument does not include a statutory review clause and, in line with the requirements of the Small Business, Enterprise and Employment Act 2015, Edward Argar has made the following statement, "The duty under section 28 of the Small Business, Enterprise and Employment Act 2015, for a Minister of the Crown to make provision for review in secondary legislation, does not apply. This is because this is an Order of Her Majesty's Privy Council approving rules made by the GPhC".

15. Contact

15.1 Kathryn Flynn at the Department of Health and Social Care, Telephone: 0113 2545967 or email: Kathryn.Flynn@dhsc.gov.uk can be contacted with any queries regarding the instrument.

15.2 Phil Harper, Deputy Director for Professional Regulation, at the Department of Health and Social Care can confirm that this Explanatory Memorandum meets the required standard.

15.3 Edward Argar at the Department of Health and Social Care can confirm that this Explanatory Memorandum meets the required standard.