EXPLANATORY MEMORANDUM TO

THE HEALTH AND CARE PROFESSIONS COUNCIL (MISCELLANEOUS AMENDMENTS) RULES ORDER OF COUNCIL 2025

2025 No. 240

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 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 Phil 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 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.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 The Health and Care Professions Council (Miscellaneous Amendments) Rules Order of Council 2025 will make changes to the registration fees charged by the Health and Care Professions Council (HCPC) for scrutinising and processing applications for admission to its register, for renewal of registration and readmission or restoration to its register. The proposed increase in fees will enable the HCPC to continue to discharge its statutory functions and effectively regulate 15 health and care professions across the UK.

4.2 It will also rectify defects identified by the Joint Committee on Statutory Instruments (JCSI) in the Health and Care Professions Council (Miscellaneous Amendment) Rules Order of Council 2023 (S.I 2023/995). This Order made changes to the HCPC's procedural rules to allow the HCPC's practice committees and its appeal panel to hold meetings or hearings using audio and/or video conferencing outside of emergency periods. In addition, in person meetings and hearings continue to be available. The Order set out which decision makers have the power to decide whether a meeting or hearing should be held virtually. However, the JCSI reported that the Order did not provide powers to all of the decision makers set out in the accompanying explanatory memorandum. The Health and Care Professions Council (Miscellaneous

Amendments) Rules Order 2025 will extend powers to the decision makers omitted from S.I 2023/995.

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 England and Wales, Scotland and Northern Ireland.

4.4 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England and Wales, Scotland and Northern Ireland.

5. Policy Context

What is being done and why?

5.1 The HCPC's registration renewal, readmission and restoration fees will be increased as will the scrutiny and processing fees connected with registration. The HCPC's registrants' fees renew over a rolling 2-year cycle.

5.2 The HCPC has consulted on its registration fee increase. A public consultation took place between 10 April to 14 June 2024. The HCPC undertook extensive engagement with the Chief Allied Health Professions Officers in the four UK countries, professional bodies, trade unions and registrants.

5.3 The HCPC is extending its registration fee from £116.36 to £123.34, an increase of £6.98 per year, to be phased in over two years from 2025. Due to the nature of the HCPC's registrant renewal cycles, the majority of HCPC registrants will not start paying the increased fee until 2026 or 2027.

5.4 The HCPC's registration renewal fee will be raised to £246.68 from £232.72, its restoration to the register and re-admittance to the register fee will be raised to £185.01 from £174.54 and its scrutiny fee will be raised to £86.34 from £81.45. The HCPC is proposing to maintain the 50% discount that graduate applicants receive for the first two professional years of registration.

5.5 The HCPC's new registration renewal fee, from April 2025, has been calculated on the basis of actual and projected CPI inflation between May 2023 and December 2024 plus £2.55 for critical further modernisation and liabilities.

5.6 The HCPC would like to bring in the fee increase so that it can continue to discharge its statutory functions effectively and bring forward regulatory improvements, including enhancing its registration and education services and supporting the continuous professional development of its registrants.

5.7 The Health and Care Professions Council (Miscellaneous Amendment) Rules Order of Council 2025 will also rectify defects identified by the JCSI in S.I 2023/995. This Order made changes to the HCPC's procedural rules to allow the HCPC's practice committees and its appeal panel to hold meetings or hearings using audio and/or video conferencing outside of emergency periods. In addition, in person meetings and hearings continue to be available. The Order set out which decision makers have the power to decide whether a meeting or hearing should be held virtually. However, the JCSI reported that the Order did not provide powers to all of the decision makers set out in the accompanying explanatory memorandum. This instrument will amend the following procedural rules to extend the decision makers:

- The Health and Care Professions Council (Investigating Committee) (Procedure) Rules 2003 will be amended to provide a power to the committee as well as the chair to arrange a virtual preliminary meeting.

- The Health Professions Council (Registration Appeals) Rules 2003 will be amended to provide a power to the Appeal Panel as well as the Chair to arrange a virtual preliminary meeting.
- The Health and Care Professions Council (Conduct and Competence Committee) (Procedure) Rules 2003 will be amended to provide the Chair with a power as well as the committee to arrange a virtual preliminary meeting.
- The Health and Care Professions Council (Health Committee) (Procedure) Rules 2003 will be amended to provide the chair with a power as well as the committee to arrange a virtual preliminary meeting.

What was the previous policy, how is this different?

5.8 The HCPC's registration fee is currently £116.36. This instrument will raise the registration fee to £123.34 an increase of £6.98 per year, to be phased in over two years from 2025. The HCPC's renewal fee is currently £232.72 and this instrument will raise the renewal fee to £246.68. The HCPC's restoration to the register and re-admittance to the register fee is currently £174.54 and this instrument will raise the fee to £185.01. The HCPC's scrutiny fee for applicants who have successfully completed an approved UK programme of education and training is currently £81.45 and this instrument will raise the fee to £86.34. The scrutiny fee for international applicants is £639.98 and this instrument will raise the fee to £678.38.

5.9 S.I 2023/995 amended the HCPC's procedural rules to allow the HCPC's practice committees and its appeal panel to hold meetings or hearings using audio and/or video conferencing outside of emergency periods. In addition, in person meetings and hearings continue to be available. The Order set out which decision makers have the power to decide whether a meeting or hearing should be held virtually. However, the JCSI noted that the Order did not provide powers to all of the decision makers set out in the accompanying explanatory memorandum. This instrument will amend the HCPC's procedural rules to include the decision makers omitted from S.I 2023/995.

6. Legislative and Legal Context

How has the law changed?

6.1 The HCPC's legislative framework is set out in the Health Professions Order 2001. The powers conferred by articles 7(1) and (3) and 41(2) of the Health Professions Order 2001 allow the HCPC to make rules on registration and fees. This instrument will amend the Health and Care Professions Council (Registration and Fees) Rules 2003 which set out the HCPC's registration fees.

6.2 Powers conferred by articles 26(3), 32(1), (2) and (4) of the Health Professions Order 2001 permit the HCPC to make rules as to the procedure to be followed by its practice committees (Investigating Committee, Health Committee and Conduct and Competence Committee) when considering an allegation against a registrant and before making a determination on a registrant's fitness to practise. Powers conferred by articles 37(4) and (5)(i) of the Health Professions Order 2001 permit rules to be made setting out the procedure to be followed by the HCPC's appeal panel when hearing registration appeals against decisions of the Education and Training Committee.

6.3 S.I 2023/995 amended the HCPC's procedural rules to allow the HCPC's practice committees and its appeal panel to hold meetings or hearings using audio and/or video conferencing outside of emergency periods. In addition, in person meetings and

hearings continue to be available. The instrument provided powers to specific decision makers on who can decide when a meeting or hearing is to be held virtually. However, the JCSI reported that the instrument did not provide powers to all of the decision makers set out in the accompanying explanatory memorandum. This instrument will amend the HCPC's procedural rules to include the decision makers omitted from S.I 2023/995.

Why was this approach taken to change the law?

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

7. Consultation

Summary of consultation outcome and methodology

7.1 The HCPC consulted on its registration fee rise between 10 April to 14 June 2024. The HCPC undertook extensive engagement with the Chief Allied Health Professions Officers in the four UK countries, professional bodies, trade unions and registrants. The HCPC received a total of 1,040 responses to its consultation, of which 98% came from individuals and 2% from organisations. 98% of individuals who responded to the consultation were HCPC registrants. The majority of respondents to the consultation did not support the registration fee increase. A copy of the HCPC's fees consultation analysis and outcome is available at https://www.hcpc-uk.org/globalassets/resources/external-consultations/2024/fees-consultation-analysis-and-outcomes-paper-october-2024.pdf?v=638635760970000000

7.2 On 26 September 2024, the HCPC's Council met and discussed the consultation responses. The Council acknowledged that the majority of respondents to the consultation were not in favour of the proposed registration fee rise and recognised the challenging situation that many of the HCPC's registrants are facing in terms of financial pressures. However, it decided to proceed with the registration fee increase so that the HCPC can continue to discharge its statutory functions effectively and bring forward improvements.

8. Applicable Guidance

8.1 Not applicable.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 An equalities impact assessment is published alongside the Explanatory Memorandum on the HCPC's website. Please see https://www.hcpc-uk.org/globalassets/resources/external-consultations/2024/fees-consultation-analysis-and-outcomes-paper-october-2024.pdf?v=638635760970000000

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because this instrument introduces amendments to the HCPC's rules which affect its registrants only.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because this instrument introduces amendments to the HCPC's rules which affect its registrants only.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is that the HCPC will keep its rules under review. The HCPC regularly reviews the fees that it charges to ensure that they are in line with the global costs of regulating individuals on its register.

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, Karin Smyth, 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 His Majesty's Privy Council approving rules made by the HCPC."

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 In November 2023, the JCSI reported S.I 2023/995. The JCSI asked for clarity as to why in relation to paragraph 3(d) and 6(c) (new rule 8B in S.I 2003/1574 and 14A in S.I 2003/1579) the power to arrange a virtual preliminary meeting has only been given to the Chair, rather than the committee or appeal panel as well and in relation to paragraph 4(d) and 5(d) (new rule 10B in S.I 2003/1575 and S.I 2003/1576), the power to arrange a virtual preliminary meeting has been given only to the committee and not the chair as well.

11.2 This instrument amends:

- S.I 2003/1574 to provide a power to the committee as well as the chair to arrange a virtual preliminary meeting.
- S.I 2003/1579 to provide a power to the appeal panel as well as the chair to arrange a virtual preliminary meeting.
- S.I 2003/1575 to provide the chair with a power as well as the committee to arrange a virtual preliminary meeting.
- S.I 2003/1576 to provide the chair with a power as well as the committee to arrange a virtual preliminary meeting.

12. European Convention on Human Rights

12.1 The Minister for State at the Department of Health has made the following statement regarding Human Rights:

"In my view the provisions of the Health and Care Professions Council (Miscellaneous Amendment) Rules Order of Council 2025 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").