EXPLANATORY MEMORANDUM TO

THE HEALTH AND CARE PROFESSIONS COUNCIL (REGISTRATION AND FEES) (AMENDMENT) (NO. 2) RULES ORDER OF COUNCIL 2015

2015 No. 1337

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

To help ensure that the Health and Care Professionals Council (HCPC) is financially sustainable over the medium to long term so that it can continue to protect the public.

To ensure that the HCPC can pay its contribution to the costs of the Professional Standards Authority ("PSA"), as required by the Professional Standards Authority for Health and Social Care (Fees) Regulations 2015

To invest in improvements, including improvements to the way in which fitness to practise hearings are run and investment in essential IT changes.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None.

4. Legislative Context

The Health Professions Council (Registration and Fees) (Amendment) (No.2) Rules Order of Council 2015, and the Rules scheduled to it, are made under articles 7 and 41 of the Health and Social Work Professions Order 2001 and amend the Health Professions Council (Registration and Fees) Rules 2003.

The Health Professions Council (Registration and Fees) Rules Order of Council 2003 and the Rules scheduled to it, were made under articles 5, 7, 9, 10, 11, 12, 33 and 41 of the Health Professions Order 2001 (now the Health and Social Work Professions Order 2001).[1]

5. Territorial Extent and Application

The instrument applies to the whole of the United Kingdom and will also be laid in Scottish Parliament.

6. European Convention on Human Rights

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

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[1] The legislation was renamed when the HCPC took on the professional regulation of social workers. The consolidated text incorporates repeals and amendments made up to 1st August 2013.

7. Policy background

7.1 The purpose of the Health and Care Professions Council (Registration and Fees) (Amendment) (No2) Rules Order of Council 2015 is to increase the registration fees charged by the HCPC in respect of registration with it (initial, renewal, restoration and readmission to the register) and scrutiny fees connected with registration.

7.2 The HCPC last increased its fees in April 2014.

7.3 The periodic fee payable by the HCPC to the PSA will increase HCPC costs by approximately £1m per year. The HCPC also need to ensure that it can balance its budget over the medium term and continue to function as an effective regulator.

7.4 The proposed renewal fee would continue to be the lowest of all the regulators overseen by the PSA and around a third less than the next highest fee charged by any other regulatory body.

7.5 The HCPC plan that the fees would be increased from 1 August 2015 (subject to parliamentary approval of changes to their Rules).

7.6 In addition to consulting on changes to their fees, the HCPC have also consulted on a small number of other changes to its statutory Rules which will provide it with more flexibility in ensuring that it can operate as efficiently as possible. These include changes about registration certificates and payment by direct debit.

8. Consolidation

None.

9. Consultation outcome

9.1 The HCPC consulted between 27 March 2015 and 6 May 2015. The consultation sought views on proposed increases to each of the HCPC's registration fee types. A total of 2,393 responses were received to the consultation, 97% of which were from individuals, the majority of which were HCPC registered professionals.

9.2 The majority of respondents disagreed with the proposals to increase the HCPC's registration fees, with the exception of the international and EEA scrutiny fee for which the majority of respondents agreed with the proposal.

9.3 Themes in the responses received included the ability of HCPC registrants and applicants to pay the new fees; the level of and justification for the proposed fees; the future funding of the Professional Standards Authority (PSA) by the regulators it oversees; and the costs incurred by the HCPC in scrutinising different types of application for registration. Concern was expressed that the proposed increase to the restoration fee would unfairly punish applicants who had previously been struck off.

9.4 Having considered the consultation outcomes, the HCPC agreed to increase the fees as proposed in the consultation, subject to parliamentary approval of the necessary Rules (with the exception of the proposed increase to the restoration fee). This decision was made for the following reasons.

- The increase in fees is necessary to ensure that the HCPC can be financially sustainable over the medium to long term and that it can continue to be an effective regulator that protects the public.

- Part of the increase is necessary so that the HCPC can pay its contribution to the costs of the Professional Standards Authority (PSA).

- The remainder of the increase is necessary to be able to invest in improvements, including improvements to the way in which fitness to practise hearings are run and investment in essential IT changes.

9.5 The HCPC agreed to amend its proposals about the restoration fee as a result of the consultation feedback, agreeing to increase this fee in line with the readmission fee.

9.6 If agreed, the increase to the HCPC fees would still mean that it has the lowest renewal fee of all the regulators overseen by the PSA.

10. Guidance

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

11. Impact

11.1 The increases in fees are as follows:

- A £10 increase (an increase of 12 per cent) to the annual renewal fee. This would increase the renewal fee from £80 to £90 per year.
- Scrutiny fee for applicants from approved programmes to increase from £56 to £63 (a 12 per cent increase)
- Readmission fee to increase from £200 to £225 (a 12 per cent increase)
- Restoration fee to increase from £200 to £225 (a 12 per cent increase)
- Scrutiny fee for international and EEA applications to increase from £440 to £495 (a 12 per cent increase)
- Scrutiny fee for grand-parenting applications to increase from £440 to £495 (a 12 per cent increase)

11.2 Regulator rule changes which are approved by the Privy Council are outside the scope of better regulation principles as these measures do not require collective agreement through Cabinet Office policy committees. This in turn means that there is no scrutiny role for the Reducing Regulation Committee (or the Regulatory Policy Committee opinions on Impact Assessments)

12. Regulating small business

The legislation does not apply to small business.

13. Monitoring & review

The HCPC periodically reviews its Constitution and its registrant fees.

13.1 Contact:

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