EXPLANATORY MEMORANDUM TO THE

THE HEALTH PROFESSIONS (PARTS OF AND ENTRIES IN THE REGISTER) (AMENDMENT) ORDER OF COUNCIL 2004

2004 No. 2522

1. This explanatory memorandum has been prepared by the Privy Council and is laid before Parliament by Command of Her Majesty

Description

2. This Instrument creates a new part of the register maintained by the Health Professions Council (the HPC) in respect of Operating Department Practitioners. It also provides that the designated title for that part of the register is 'Operating Department Practitioner'.

Matters of special interest to the Joint Committee on Statutory Instruments

3. There are none.

Legislative Background

4. Following an independent review of the regulation of allied health professions and some healthcare scientists, the Professions Supplementary to Medicine Act 1960 was replaced by the Health Professions Order 2001 (S.I. 2002/254) ("the Health Professions Order") which was made under section 60 of the Health Act 1999. The regulatory body, the Council for Professions Supplementary to Medicine, was replaced by the Health Professions Council which was established in April 2002 by the Health Professions Order.

5. The HPC is required by article 5 of the Health Professions Order to establish and maintain a register of members of the relevant professions. Article 6(1) of the Health Professions Order provides that the Privy Council may by order determine the parts into which the register is to be divided and article 6(2) states that there shall be one or more designated title for each part of the register.

6. The Health Professions Order was implemented in 2003 by a range of rules and Orders including the Health Professions (Parts of and Entries in the Register) Order of Council (S.I. 2003/1571), which this Order amends.

7. The Health Professions (Operating Department Practitioners and Miscellaneous Amendments) Order 2004 (S.I. 2004/2033) ("the ODP Order") amended the Health Professions Order so as to include operating department practitioners as one of the professions regulated by the HPC under the Health Professions Order. Parts of the ODP Order came into force on 27 July 2004 and 3 September 2004. This Order together with the Health Professions Council (Registration and Fess) (Amendment) Rules Order of Council 2004 and the Health Provisions (Transitional Provisions) Order

2004 will complete the legislative framework for the regulation of operating department practitioners.

Extent

8. This Instrument applies to all of the United Kingdom.

European Convention on Human Rights

9. Not applicable.

Policy background:

10. The policy intention is to strengthen public protection by extending statutory regulation to operating department practitioners. This will enable the HPC to set standards of practice, training and conduct together with requirements for good health and good character necessary for safe and effective practice as an operating department practitioner. Only those registered with the HPC as operating department practitioners will be entitled to use the designated title of Operating Department Practitioner. Anyone calling himself by the designated title of 'Operating Department Practitioner' who is not HPC registered will be liable for prosecution and on summary conviction a fine of up to £5,000.

11. Prior to the making of the ODP Order, many operating department practitioners were subject to voluntary regulation by a professional body, the Association of Operating Department Practitioners (AODP). The Government does not believe that voluntary regulation offers the same level of protection for the public as statutory regulation, for example, sanctions applied by AODP may not prevent practice by unfit practitioners since they cannot be legally enforced.

12. Prior to the making of the ODP Order, the Government undertook a three month public consultation from August to November 2003. This attracted 151 responses, the majority of which supported the broad thrust of the legislation.

Impact

13. A Regulatory Impact Assessment has not been prepared for this Instrument as a RIA formed part of the public consultation documentation.

Contact

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