EXPLANATORY MEMORANDUM TO

THE HEARING AID COUNCIL (TRANSFER OF PROPERTY, RIGHTS AND LIABILITIES) ORDER 2010

2010 No. 913

1. This explanatory memorandum has been prepared by the Department for Business, Innovation and Skills and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The Hearing Aid Council (HAC) is to be dissolved on 1st August 2010 by virtue of the coming into force of section 123(1) of the Health and Social Care Act 2008 (c.14).

2.2 The Hearing Aid Council (Transfer of Property, Rights and Liabilities) Order 2010 transfers any remaining property, rights and liabilities of the HAC to the Secretary of State for Business, Innovation and Skills when the HAC is dissolved. This Order will enable the Secretary of State to deal with such property, rights and liabilities after the HAC ceases to exist, to continue any legal proceedings to which the HAC was party and to replace the HAC as a party to ongoing agreements.

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

3.1 None.

4. Legislative Context

4.1 The Health Professions (Hearing Aid Dispensers) Order 2010 (2010 No. 233) which is made under sections 60 and 62 of, and Schedule 3 to, the Health Act 1999, makes provision for the regulation of the profession of private hearing aid dispensers by the Health Professions Council with effect from 1st April 2010. This profession will, until that date, have been regulated by the HAC.

4.2 Section 123(1) of the Health and Social Care 2008 dissolves the HAC and comes into force on 1st August 2010 (as provided by article 4(2) of the Health and Social Care Act 2008 (Commencement No. 15, Consequential Amendments and Transitional and Savings Provisions) Order 2010 (2010 No.708)).

4.3 Section 123(5) of the Health and Social Care Act 2008, under which this Order is made, enables the transfer of property, rights and liabilities of the HAC to a "relevant regulatory body" (which includes the Health Professions Council) or to the Secretary of State.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

- ***What is being done and why***

7.1 The Hampton Report on Regulatory Inspections and Enforcement recommended in 2005 that the overall number of regulating authorities be rationalised. As part of its recommendations, it called for the merger of the HAC into a new body, the Consumer and Trading Standards Agency (CTSA). The plan to set up the CTSA was later amended in order to create the Local Better Regulation Office. Further consideration was then given as to what should happen to the HAC and how hearing aid dispensers should be regulated.

7.2 After deliberations, the Government decided that the Health Professions Council should regulate hearing aid dispensers operating in the private sector. At the same time, it also decided that the requirement for employers of private hearing aid dispensers to be registered would cease as their activities could be regulated under general consumer protection legislation.

7.3 As explained in paragraph 4 above, the regulation of private hearing aid dispensers by the Health Professions Council will commence on 1st April 2010 and the HAC will be dissolved on 1st August 2010. Between those dates the HAC will seek to wind down its affairs but it is likely that some property, rights and liabilities will remain at the date of dissolution. The Order therefore provides for these to be transferred to the Secretary of State for Business, Innovation and Skills. This is considered more appropriate than a transfer to the Health Professions Council: the Department for Business, Innovation and Skills is the department which sponsors the HAC and the Health Professions Council will not require the relevant property and rights in order to carry out its future regulation of hearing aid dispensers.

- ***Consolidation***

7.4 Not applicable

8. Consultation outcome

8.1 None required.

9. Guidance

9.1 Not applicable. The Order is self-explanatory.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies from this instrument.

10.2 The impact on the public sector from this instrument is the transfer of the property, rights and liabilities from the HAC to the Secretary of State for Business and Innovation and Skills on dissolution of the HAC on 1st August 2010. The value of property, rights and liabilities in question is not expected to be material.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The instrument does not apply to small business.

12. Monitoring & review

12.1 This Order provides for a transfer of property, rights and liabilities at a single time and (because the HAC will have been dissolved) is not reversible. Therefore a review of the Order is not appropriate.

13. Contact

13.1 Carol Rice at the Department for Business, Innovation and Skills, Tel: 020 7215 5832 or email: Carol.Rice@bis.gsi.gov.uk can answer any queries regarding the instrument.

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