EXPLANATORY MEMORANDUM TO

THE OPTICIANS ACT 1989 (TRANSITIONAL PROVISIONS) ORDER 2005

2005 No.1472

1. This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty. This memorandum contains information for the Joint Committee on Statutory Instruments.

Description

2. This Order is made under the Opticians Act 1989 (Amendment) Order 2005, SI 2005 No. 848 (the "main Order"). Its purpose is to make transitional provision which is necessary at the time the main Order comes into force. The matters to which it applies are mainly disciplinary cases which had begun before the changes in the main Order come into force.

Matters of special interest to the Joint Committee on Statutory Instruments

3. There are none.

Legislative Background

4.1 The main Order, made on 22 March 2005 under section 60 of the Health Act, 1999, amended the Opticians Act, 1989. The 1989 Act provides for the regulation of opticians by the General Optical Council (GOC). The amendments dealt, among other matters, with giving the GOC broader powers to deal with impaired fitness to practise, powers to set up a compulsory scheme of continuing education and training and powers to recognise specialist qualifications.

4.2 Schedule 2 to the main Order contains some transitional provisions: article 29(2) of the main Order gives the Privy Council a power to make such further transitional, transitory or savings provisions as it considers appropriate.

4.3 An Explanatory Memorandum on the main Order was sent to the JCSI in February 2005.

Extent

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

European Convention on Human Rights

6. Not applicable.

Policy background

7.1 The policy intention of the Order is to ensure that the main Order comes into force on 30 June 2005 in a way which respects the legitimate existing rights and expectations of all who were affected by the legislation it amends.

7.2 The Order therefore supplements the transitional provisions already made in Schedule 2 to the main Order about disciplinary cases. For example, it provides for the continuation of suspension orders and erasure orders made prior to 30 June 2005 under the old provisions of the Act. It also provides for financial penalties to be limited to the old maximum penalty of £1,600 (rather than the new maximum of £50,000) where the matters which led to the imposition of a penalty order took place before 30 June 2005. It also provides for appeals against decisions which were made before 30 June 2005 to be dealt with under the old rather than the new disciplinary appeals provisions.

7.3 Moving beyond the disciplinary provisions, the Order also provides that the new requirement for insurance in section 10A of the 1989 Act (inserted by article 12 of the main Order) will not apply to any period of registration before 30 June 2005.

7.4 The Order also ensures that approvals which the GOC gave to training institutions and qualifications which were in force on 30 June 2005 continue to have effect as if they had been given under the new provisions on this subject.

Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The Order has no impact on the public sector.

Contact

9 The contact for further information on the Order is:

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