

# Health, Social Care and Sport Committee

## 26th Meeting, 2022 (Session 6), Tuesday, 20 September 2022

### Subordinate legislation

### Note by the clerk

#### Purpose

1. This paper invites the Committee to consider the following negative instruments:
  - [The General Pharmaceutical Council \(Amendment\) Rules Order of Council 2022](#)

#### Procedure for negative instruments

2. Negative instruments are instruments that are “subject to annulment” by resolution of the Parliament for a period of 40 days after they are laid. This means they become law unless they are annulled by the Parliament. All negative instruments are considered by the Delegated Powers and Law Reform Committee (on various technical grounds) and by the relevant lead committee (on policy grounds).
3. Under Rule 10.4, any member (whether or not a member of the lead committee) may, within the 40-day period, lodge a motion for consideration by the lead committee recommending annulment of the instrument.
4. If the motion is agreed to by the lead committee, the Parliamentary Bureau must then lodge a motion to annul the instrument to be considered by the Parliament as a whole. If that motion is also agreed to, the Scottish Ministers must revoke the instrument.
5. If the Parliament resolves to annul an SSI then what has been done under authority of the instrument remains valid but it can have no further legal effect. Following a resolution to annul an SSI the Scottish Ministers (or other responsible authority) must revoke the SSI (make another SSI which removes the original SSI from the statute book.) Ministers are not prevented from making another instrument in the same terms and seeking to persuade the Parliament that the second instrument should not be annulled.
6. Each negative instrument appears on the Health, Social Care and Sport Committee’s agenda at the first opportunity after the Delegated Powers and Law Reform Committee has reported on it. This means that, if questions are asked or concerns raised, consideration of the instrument can usually be continued to a later meeting to allow the Committee to gather more information or to invite a Minister to

give evidence on the instrument. Members should however note that, for scheduling reasons, it is not *always* possible to continue an instrument to the following week. For this reason, if any Member has significant concerns about a negative instrument, they are encouraged to make this known to the clerks in advance of the meeting.

7. In many cases, the Committee may be content simply to note the instrument and agree to make no recommendations on it.

## Guidance on subordinate legislation

8. Further guidance on subordinate legislation is available on the Delegated Powers and Law Reform Committee's web page at:  
<http://www.scottish.parliament.uk/parliamentarybusiness/CurrentCommittees/delegated-powers-committee.aspx>

## Recommendation

9. The Committee is invited to consider any issues which it wishes to raise in relation to these instruments.

**Clerks to the Committee**

**September 2022**

**SI 2022/697**

**Title of Instrument:** The General Pharmaceutical Council (Amendment) Rules Order of Council 2022

**Type of Instrument:** Negative SI

**Laid Date:** 23 June 2022

**Meeting Date:** 20 September 2022

**Minister to attend meeting:** No

**Motion for annulment lodged:** No

**Drawn to the Parliament's attention by the Delegated Powers and Law Reform Committee?** No.

10. The Delegated Powers and Law Reform Committee considered the instrument at its meeting on [6 September 2022](#) and made no recommendations in relation to this instrument.

**Reporting deadline:** 5 October 2022

**Purpose**

11. The purpose of the instrument is to allow the Appeals and Fitness to Practise Committees of the General Pharmaceutical Council (GPhC) to hold meetings or hearings using audio and/or video conferencing facilities on a permanent basis. In addition, in person meetings and hearings will also continue to be available.

12. A copy of the Policy Note is included in **Annexe A**.

**POLICY NOTE**

**THE GENERAL PHARMACEUTICAL COUNCIL (AMENDMENT) RULES ORDER OF COUNCIL 2022**

**2022 No. 697**

The above instrument was made in exercise of the powers conferred by articles 61(1), (2) (a), (3) (a) and (6) (b) and 66(1) of the Pharmacy Order 2010. This Instrument is subject to negative procedure.

**Background**

1. The rules scheduled to and approved by this instrument, amend the following General Pharmaceutical Council (Appeals Committee) Rules 2010 (as contained in the Schedule to the General Pharmaceutical Council (Appeals Committee Rules) Order of Council 2010 (S.I. 2010/1614)) and the General Pharmaceutical Council (Fitness to Practise and Disqualification etc.) Rules 2010 (as contained in the Schedule to the General Pharmaceutical Council (Fitness to Practise and Disqualification etc. Rules) Order of Council 2010 (S.I. 2010/1615)).

**Policy Objective**

2. This instrument will allow the Appeals and Fitness to Practise Committees of the General Pharmaceutical Council (GPhC) to hold meetings or hearings using audio and/or video conferencing facilities on a permanent basis. In addition, in person meetings and hearings will also continue to be available.
3. The GPhC's current rules state that its Appeals and Fitness to Practise Committees must hold in-person hearings. During the Covid-19 emergency period, the GPhC made temporary rules changes (S.I. 2021/26) which allowed its Appeals and Fitness to Practise Committees to hold hearings and meetings using audio and/or video conferencing facilities on a temporary basis. These temporary rules changes expired on 1 May 2021. The GPhC has found that holding hearing by audio and/or video conference has offered greater flexibility and there have been advantages for both the GPhC and its registrants in terms of cost and time savings.

**Consultation Outcome**

4. The GPhC ran a 12 week stakeholder consultation between 16 November 2021 and 8 February 2022 on its proposal to hold virtual hearings on a permanent basis. The GPhC delivered its consultation through a consultation survey which received 481 responses: 460 from individuals and 21 on behalf of an organisation. The GPhC also received 2 responses from organisations writing more generally about their views, bringing the total number of respondents to 483. In addition, the GPhC also carried out a survey of its online public panel members. This was open from 11 January to 8 February 2022 and received a total of 148 responses.
5. The responses to the GPhC's consultation were broadly supportive of the GPhC's proposed rules changes. The GPhC's consultation analysis is available at Consultation on remote hearings: analysis report ([pharmacyregulation.org](http://pharmacyregulation.org))

**Guidance**

6. To enable consistency of decision-making, when holding virtual hearings during the covid19 emergency period, the GPhC produced interim guidance on virtual hearings which is available on its website. Please see: Remote hearings during the pandemic: Guidance on how to ensure a case is suitable for a remote hearing - November 2020 | General Pharmaceutical Council (pharmacyregulation.org)

**Impact**

7. There is no impact on business, charities, and voluntary bodies. There is also no impact on the public sector.
8. An equality impact assessment has been published on the GPhC's website. Please see Analysis of the effects on equality (pharmacyregulation.org).

**Monitoring and Review**

9. The approach to monitoring of this legislation is that the GPhC will keep its rules under review.

Scottish Government Health and Social Care Directorates

June 2022