

**EXPLANATORY MEMORANDUM TO THE  
GENERAL OPTICAL COUNCIL (FITNESS TO PRACTISE RULES) ORDER  
OF COUNCIL 2005**

**2005 No. 1475**

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.
2. **Description**
  - 2.1 The Rules approved by this Order make provision for procedures to be followed in fitness to practise proceedings of the General Optical Council (“the GOC”) under the Optician Act 1989 (“the Act”).
  - 2.2 The Rules make provision for investigations of allegations of impairment of a registrant’s fitness to practise. They allow an officer of the Council, other than the registrar, to exercise the Investigation Committee’s function of investigating allegations and sets out the formal procedures allowing a registrant to respond to an allegation. The Investigation Committee must then consider whether further investigation is required.
  - 2.3 The Rules then deal with assessments of individual registrants. The Investigation Committee or the Fitness to Practise Committee may direct the individual to meet with a person appointed by the Committee to assess matters relating to his health or professional performance. The Committee may draw such inferences as seem appropriate to them where the registrant fails to submit to, or cooperate with, an assessment.
  - 2.4 As an alternative to referral to the Fitness to Practise Committee the Investigation Committee has powers to give warnings to registrants. The Rules also set out the procedure for hearings to consider the making of interim orders.
  - 2.5 Parts 6 and 7 set out the rules for the hearings and procedures of the Fitness to Practise Committee, covering representation of the parties, for a hearing to proceed in the absence of a party and for joinder of proceedings. Rule 23 provides that hearings are generally to be held in public with certain permitted exceptions. The Rules make provision with regard to vulnerable witnesses and for certain advisers to be present at hearings.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 None
4. **Legislative background**

- 4.1 The GOC is empowered under the Act to make provision with regard to the proceedings to be followed by the Fitness to Practise Committee.
- 4.2 These Rules are made by the GOC, in the exercise of the powers conferred upon them by sections 13E(1), 23C, 23D(7), 23E(8) and 31A of the Act.

## **5. Extent**

- 5.1 This instrument applies to the United Kingdom.

## **6. European Convention on Human Rights**

- 6.1 N/A

## **7. Policy background**

- 7.1 In 2000 the GOC agreed proposals for wide ranging legislative change.

7.2 The GOC consulted with patient and consumer groups, representative and professional bodies within the optical profession and a wide range of other organisations with an interest in reform of the law in this area.

7.3 The Government welcomed these proposals as consistent with its overall aim of setting up a modern, comprehensive regulatory framework, with all regulatory bodies of the healthcare professions:

- Having as their main objection the need to safeguard the health and well-being of persons using the services of registrants;
- Being open and transparent in their procedures and requirements; and
- Having fair and fast decision making processes.

7.4 In April 2004 the Government launched a statutory consultation on a draft Order to amend the Act providing for reform in this area of law and modernisation of the GOC. The document contained proposals for radical reform in a number of key areas:

- (a) The introduction of a new student register;
- (b) The ability for registrants to apply for particulars of specified specialties to be entered on the register;
- (c) The introduction of a system of continuing education and training for all registered optometrists and dispensing opticians;
- (d) A fundamental restructuring of the GOC's fitness to practise framework, to deliver more efficient and simplified procedures; and
- (e) The introduction of a requirement for compulsory insurance.

7.5 A summary of the responses was published by the Department of Health in February 2005 when the revised Order was laid before Parliament.

7.6 The Rules which are the subject of this memorandum form part of the same package of changes as the Order. The Opticians Act Amendment (Order) 2005 (S.I. 2005/848) substantially amended the 1989 Act. Most of its provisions are due to come into force on 30 June 2005, as are those of these Rules.

7.7 The GOC consulted on the draft General Optical Council (Fitness to Practise) Rules during August of 2004.

## **8. 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 There are no identified costs to either the public or the Exchequer arising from this Instrument.

## **9. Contact**

Paul Atkinson at the Department of Health (telephone: 0113 254 5311 or e-mail: [paul.atkinson@dh.gsi.gov.uk](mailto:paul.atkinson@dh.gsi.gov.uk)) can answer any queries regarding the instrument.