

**EXPLANATORY MEMORANDUM TO  
THE GENERAL MEDICAL COUNCIL (CONSTITUTION) (AMENDMENT)  
ORDER 2007**

**SI 2007/616**

1. This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.
2. **Description**
  - 2.1 The main purpose of the Statutory Instrument is to extend the term of office of the elected members of the General Medical Council (“GMC”) whose terms of office would expire at the end of 30th June 2007 until the end of 31st December 2008. Related amendments are made to allow more generally for the possibility of the GMC continuing as presently constituted until the latter date, without the need for new membership, subject to certain restrictions.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 None
4. **Legislative Background**
  - 4.1 The General Medical Council (Constitution) Order 2002 (SI 2002/3136) (“the 2002 Order”) makes provision for the constitution of the GMC, including the number of elected, appointed and nominated members and their respective terms of office. This Order makes amendments to the 2002 Order.
  - 4.2 The 2002 Order set the number of elected members of the GMC at 19, appointed members at 2, and nominated members at 14. The principal purpose of this amending Order is to extend the term of office for the elected members whose term of office would expire at the end of 30th June 2007 until the end of 31st December 2008. In addition, related amendments are made so as to allow, more generally, for the possibility of the GMC as presently constituted continuing in office until the end of 31st December 2008, without the need for new membership.
  - 4.3 However, the Medical Act 1983 requires that the majority of the GMC must be elected members, at least until the final year of the elected members’ terms of office, so if 3 or more vacancies amongst the elected membership arise before the end of 2007, by-elections will need to be held in order to bring the GMC back up to an elected majority.

5. **Extent**

5.1 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**

7.1 In his review of Medical regulation (*Good doctors, safer patients, July 2006*) the Chief Medical Officer made a number of recommendations concerning the structure and governance of the GMC. The Government has given careful consideration to these recommendations and has published its response detailing a number of proposed changes to the membership and constitution of the GMC.

7.2 The Government will be taking the necessary legal steps to reconstitute the GMC without an elected membership in the near future. However, there are implications for the GMC between now and the implementation of any changes to its membership. Its elected members are coming to the end of their existing terms of office and new elections need to be held shortly. In discussions with the GMC, it was concluded that:

- It would be unreasonable to expect doctors to stand for election at a time when it was clear that the Government was moving towards reconstituting the GMC without an elected membership;
- The GMC needs a period of stability and continuity in its governance while a programme of reform is underway;
- The costs of running elections to a new council may well be wasted in the light of the proposed reforms

7.3 The Government has therefore agreed with the GMC that in these circumstances it is important that existing Council members are able to remain in place until a new Council is constituted.

7.4 This Amendment Order therefore extends by eighteen months the term of office of those elected members whose term of office was due to expire at the end of 30th June 2007. Their term of office will now expire at the end of 31st December 2008. In addition, the Amendment Order also removes the need to hold a by-election to fill a vacancy among elected members unless the vacancy will last for over a year and it will result in the loss of an elected majority (previously, the 2002 Order simply provided that a by-election need not be held if the vacancy was for less than a year)

7.5 Nominated and appointed members will continue to be nominated and appointed in the usual way. However, those nominated and appointed members who might otherwise have had to stand down because of statutory limitations on their terms of office have had these limitations extended – as has been the limitation on the period for which the President may serve as President.

7.6 The quorum of the GMC is also adjusted so that where its full membership is reduced as a result of a vacancy not being filled, the quorum becomes 70% of the new full membership (whole numbers rounded up) subject to a minimum of 10. This is to facilitate business continuity, having regard to the fact that the longer terms of office of elected members increases the likelihood of vacancies arising.

## 8. **Impact**

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no detrimental impact on, and a potential benefit for, the GMC. There are no cost implications for the public sector.

## 9 **Contact**

9.1 Stuart Griffiths at the Department of Health, tel 0113 254 5249 or e-mail [Stuart.Griffiths@dh.gsi.gov.uk](mailto:Stuart.Griffiths@dh.gsi.gov.uk)