

EXPLANATORY MEMORANDUM TO
THE GENERAL MEDICAL COUNCIL (LICENCE TO PRACTISE AND
REVALIDATION) (AMENDMENT) REGULATIONS ORDER OF COUNCIL 2015

2015 No. 1375

1. This explanatory memorandum has been prepared by The Department of Health and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 The Order approves Regulations made by The General Medical Council (the “GMC”) which amend the General Medical Council (Licence to Practise and Revalidation) Regulations 2012¹ to include provisions dealing with the information that the GMC requires for determining compliance with the duty on doctors to have appropriate cover under an insurance policy or indemnity arrangement when practising.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative Context**
 - 4.1 The Health Care and Associated Professions (Indemnity Arrangements) Order 2014², which came into force on 17 July 2014 amended the Medical Act 1983 enabling the GMC to make regulations for the provision of information in relation to the statutory duty on medical practitioners who are practising to have appropriate cover under an indemnity arrangement or insurance policy for their practice.
 - 4.2 As a result of these changes, the GMC are making amendments to the General Medical Council (Licence to Practise and Revalidation) Regulations to enable the GMC to obtain information regarding a doctor’s insurance and indemnity arrangements. The amendments will mean that:
 - Doctors will need to include a declaration on insurance and indemnity in any application for a licence to practise in order for it to be complete.
 - The GMC will have the power to request information from the doctor or another party to be satisfied that the declarations are accurate and to determine whether the doctor has appropriate cover in place.

¹ S.I. 2012/2685

² S.I. 2014/1887

- The GMC will have the power to refuse to grant or to withdraw a licence for failure to have appropriate cover or failure to comply with the requirements to provide the declaration or further information they might request.

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

7.1 The GMC are amending the General Medical Council (Licence to Practise and Revalidation) Regulations 2012 in accordance with powers on the provision of information to the Registrar as set out by the Health Care and Associated Professions (Indemnity Arrangements) Order 2014, which came into force on 17 July 2014 and amended the Medical Act 1983.

7.2 That Order implemented the Finlay Scott review recommendations and Article 4(2)(d) of Directive 2011/24/EC of the European Parliament and of the Council on the application of patients' rights in cross-border healthcare ("the Directive"). The four UK Health Departments accepted the recommendations of the Finlay Scott review which recommended that all regulated healthcare professionals should be required to hold insurance or indemnity as a condition of their registration (or, in the case of medical practitioners, a licence to practise) when carrying out work as a regulated healthcare professional. We have therefore been committed to requiring all regulated healthcare professionals to hold indemnity or insurance for some time. The EU Directive reinforced that direction of travel and committed us to legislate, namely to have in place systems of professional liability cover or similar in respect of cross-border healthcare for patients.

7.3 The purpose of the policy is to ensure that people have access to appropriate redress in the unlikely event that they are negligently harmed during the course of their care. Everyone should have this by right, and the overwhelming majority of regulated healthcare professionals will be unaffected by the proposals because they are already indemnified through personal cover or cover provided by their employers.

7.4 The Health Care and Associated Professions (Indemnity Arrangements) Order 2014 substituted a new section 44C of the Medical Act 1983 which provides that a person who holds a licence to practise as a medical practitioner must have an indemnity arrangement in force which provides appropriate cover for their

practice. Unless a medical practitioner can demonstrate to the satisfaction of the GMC that such arrangements are (or will be) in place, they will be unable to hold a licence to practise and so will be unable to practise.

8. Consultation outcome

- 8.1 The GMC carried out a public consultation between 15 October 2014 and 10 December 2014. The [consultation document](#) is available on the GMC's website.
- 8.2 The GMC received a total of 31 responses to their consultation. The responses to the consultation indicated a high level of support for the proposals from both individuals and stakeholder organisations. Respondents in favour of the proposals felt they were 'reasonable' and 'appropriate' and that the changes highlighted the importance of appropriate indemnity cover for both doctors and patients.
- 8.3 Some respondents felt that the proposals were insufficient and suggested that the GMC should both request and check evidence of indemnity cover. They felt that this was the best way of ensuring that patients will be able to make a claim should the need arise. However, the GMC will not routinely ask for evidence of insurance and indemnity at the point of registration with a licence to practise as the Registrar will have powers to request evidence where necessary. The GMC are likely to exercise those powers only where they become aware of information which may raise concerns about the validity of the original application declaration completed by the doctor.
- 8.4 The [consultation report](#)³ is available on the GMC's website.

9. Guidance

- 9.1 The GMC already provide guidance for doctors and separate guidance for patients and the public on the importance of doctors holding appropriate insurance and indemnity for their practice. The GMC will be updating this guidance to reflect the professional indemnity requirements for doctors applying for, or renewing, registration with a licence to practise.

10. Impact

- 10.1 The GMC have confirmed that there is no ongoing cost impact for registrants. It has committed to contacting all doctors with registration and a licence to practise (by email or post) when the regulations come into force, to let them know about the changes and remind them of their statutory obligation to have appropriate cover in order to hold a licence to practise. There will be a cost of approximately

³ http://www.gmc-uk.org/09__Annex_B__I_and_I__changes_to_the_Licence_to_Practise_and_Revalida....pdf_60498066.pdf

£9,600 involved in sending this information by post (where a doctor has not provided an email address).

- 10.2 An impact assessment has not been prepared for this instrument. An equality impact assessment was undertaken by the Department of Health when considering the necessary changes to the main framework legislation - the Health Care and Associated Professions (Indemnity Arrangements) Order 2014. Feedback was requested on any equality issues that would result from the implementation of the amended legislation. None were subsequently identified. In addition there is already a professional duty on doctors to have adequate and appropriate insurance or indemnity cover at all times so this should not be an additional burden.
- 10.3 However, in developing the amended regulations the GMC took into account that a doctor's registration and licensing requirements can change with their personal circumstances, such as periods of ill health, pregnancy or career breaks. For this reason, although the GMC will have the power to do so, they will not routinely require doctors to inform the GMC each time their cover ceases or their employment status changes, for example due to reasons associated with the characteristics of disability, gender, and pregnancy and maternity which are protected under the Equality Act 2010.

11. Regulating small business

- 11.1 The legislation does not apply to small business. The changes that it brings about relate to the individual rather than business.

12. Monitoring & review

- 12.1 Following the implementation of the regulations the GMC will monitor the operational impact (by way of a post implementation review) and will review and amend their guidance as necessary.

13. Contact

- 13.1 Lindsey Proctor at the Department of Health, Tel: 0113 2545811 or email: Lindsey.proctor@dh.gsi.gov.uk can answer any queries regarding the instrument.