

EXPLANATORY MEMORANDUM TO
THE GENERAL DENTAL COUNCIL (INDEMNITY ARRANGEMENTS)
(DENTISTS AND DENTAL CARE PROFESSIONALS) RULES ORDER OF
COUNCIL 2015

2015 No. 1758

1. This explanatory memorandum has been prepared by The Department of Health and is laid before Parliament by Command of Her Majesty. This Order is being simultaneously laid before the Scottish Parliament.
2. **Purpose of the instrument**
 - 2.1 The Order approves Rules made by The General Dental Council (the “GDC”).
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 In July 2014, legislation was introduced which means that all practising healthcare professionals should have appropriate indemnity arrangements in place as a condition of their registration with their regulator.
 - 3.2 The GDC are making Rules to enable the provision of information to the registrar about the indemnity arrangements that are or will be in place in relation to a person who is or intends to practise as a dentist or dental care professional when that person applies for registration, restoration or retention in the relevant register maintained by the GDC.
 - 3.3 The GDC’s registrar will be able to request that applicants provide acceptable evidence or information about their professional indemnity arrangements.
4. **Legislative Context**
 - 4.1 The GDC are empowered to make these rules as set out by the Health Care and Associated Professions (Indemnity Arrangements) Order 2014, which came into force on 17th July 2014.
5. **Territorial Extent and Application**
 - 5.1 This instrument extends to all of the United Kingdom (UK).
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 GDC are empowered to make these rule amendments as set out by the Health Care and Associated Professions (Indemnity Arrangements) Order 2014, which came into force on 17th July 2014. This 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").
- 7.2 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 (and 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.
- 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 makes provision that all practising regulated healthcare professionals to hold an insurance or indemnity arrangement as a condition of their registration (and in the case of medical practitioners, a licence to practise) with the relevant regulatory body.
- 7.5 It should be noted that:
- The vast majority of regulated healthcare professionals are in receipt of cover by virtue of their employer's liability, or via a professional body which offers an indemnity arrangement as a benefit of membership.
 - It will be for individual healthcare professionals to assure themselves that appropriate cover is in place for all the work they undertake. Unless healthcare professionals who are or intend to practise can demonstrate to the satisfaction of the regulatory bodies that such arrangements are (or will be) in place they will be unable to be registered as a healthcare professional and so will be unable to practise.
- 7.6 In order to implement the professional indemnity requirement fully, the GDC need to implement the General Dental Council (Indemnity Arrangements) (Dentists and Dental Care Professionals) Rules Order of Council 2015 to enable them to provide acceptable evidence or information about their professional indemnity arrangements. The GDC will also be able to take appropriate action where a registrant did not have a professional indemnity arrangement in place, or where a professional indemnity arrangement does not provide appropriate cover.

8. Consultation outcome

- 8.1 The GDC carried out a public consultation between 8th December 2014 and 9th January 2015. The consultation document is available on the GDCs website ([http://www.gdc-uk.org/gdccalendar/consultations/pages/the-consultation-on-the-general-dental-council-\(indemnity-arrangements\)-\(dentists-and-dental-care-professionals\)-rules-orde.aspx](http://www.gdc-uk.org/gdccalendar/consultations/pages/the-consultation-on-the-general-dental-council-(indemnity-arrangements)-(dentists-and-dental-care-professionals)-rules-orde.aspx)).
- 8.2 The GDC received 23 responses to the consultation. Whilst the majority of respondents agreed with the draft Rules as they stand, most concern was seen around the proposed time limit of 14 days for the provision of further information. The suggestions for longer time limits were considered and the proposed time limits were changed to 28 days to take account of these concerns. The GDC Council considered the responses to the consultation and agreed the Rules as proposed with the minor amendment to the time limits for providing information.

9. Guidance

- 9.1 The GDC already has guidance on the requirement to have a professional indemnity arrangement in place. The GDC will also be updating its guidance for applicants applying for, or renewing their registration on the requirement to have professional indemnity arrangements in place as a condition of registration.

10. Impact

- 10.1 The GDC have confirmed that there is no ongoing cost impact to report, there will be some costs to implement for the GDC but no ongoing costs for its registrants.
- 10.2 Additionally, there are no additional impacts to report on particular groups on the basis of equality.

11. Regulating small business

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

12. Monitoring & review

- 12.1 The GDC will keep the Rules being created by this legislation under on-going review.

13. Contact

- 13.1 Sharon Corner at the Department of Health Tel: 0113 2546150 or email: sharon.corner@dh.gsi.gov.uk can answer any queries regarding the instrument.