EXPLANATORY MEMORANDUM TO

THE GENERAL DENTAL COUNCIL (PROFESSIONS COMPLEMENTARY TO DENTISTRY) (DENTAL HYGIENISTS AND DENTAL THERAPISTS) REGULATIONS ORDER OF COUNCIL 2006

2006 No. 1667

THE GENERAL DENTAL COUNCIL (PROFESSIONS COMPLEMENTARY TO DENTISTRY) (BUSINESS OF DENTISTRY) RULES ORDER OF COUNCIL 2006

2006 No. 1670

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 These two Orders relate to Rules and Regulations made by the General Dental Council dealing with the regulation of professions complementary to dentistry.

2.2 **The General Dental Council (Professions Complementary to Dentistry) (Dental Hygienists and Dental Therapists) Regulations Order of Council 2006** identifies the specified professions pursued by dental hygienists and dental therapists, and the titles that will apply to those professions. The effect of this is to bring these professions within the system of regulation set out in Part 3A of the Dentists Act 1984.

2.3 **The General Dental Council (Professions Complementary to Dentistry) (Business of Dentistry) Rules Order of Council 2006** approves rules made by the General Dental Council specifying classes of dental care professionals registered under the Dentists Act 1984. The effect of this is to allow a member of such a class to carry on the business of dentistry as an individual.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 The Rules and Regulations which are scheduled to these Orders of Council were made under powers in the Dentists Act 1984, as amended by the Dentists Act 1984 (Amendment) Order 2005 (SI 2005/2011). That Order, made under powers in section 60 of the Health Act 1999, gave the General Dental Council

power to make regulations specifying professions complementary to dentistry and titles applying to specified professions.

4.2 The General Dental Council (Professions Complementary to Dentistry) (Dental Hygienists and Dental Therapists) Regulations Order of Council 2006 is the second of two instruments made under those powers specifying professions complementary to dentistry. They specify the professions pursued by dental hygienists and dental therapists. Those professions are already regulated by the General Dental Council under the Dentists Act 1984, but will now be brought within the new system of regulation set out in the new Part 3A of the Dentists Act 1984 (inserted by the Dentists Act 1984 (Amendment) Order 2005).

4.3 The first instrument made under the power in the Dentists Act to specify new professions complementary to dentistry was the General Dental Council (Professions Complementary to Dentistry) Regulations Order of Council 2006. The Regulations scheduled to that Order specified four professions complementary to dentistry, namely clinical dental technicians, dental nurses, dental technicians and orthodontic therapists. Those professions have not previously been subject to statutory regulation. The regulation of those professions is considered to be devolved and hence that Order was required to be laid before the Scottish Parliament as well as before both Houses of Parliament.

4.4 The regulation of the professions of dental hygienists and dental therapists, however, is not devolved, and hence the General Dental Council (Professions Complementary to Dentistry) (Dental Hygienists and Dental Therapists) Regulations Order of Council 2006 is required to be laid only before the Westminster Parliament.

4.5 The General Dental Council (Professions Complementary to Dentistry) (Business of Dentistry) Rules Order of Council 2006 is made under section 41 of the Dentists Act 1984, as amended by the Dentists Act 1984 (Amendment) Order 2005. The effect of the Rules is that members of all the professions complementary to dentistry which have been specified under the Dentists Act may carry on the business of dentistry under section 41 of the Dentists Act.

5. Extent

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 As these Orders are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

7.1 One of the key policy objectives of the Dentists Act 1984 (Amendment) Order 2005 was to allow the General Dental Council to regulate certain professions

complementary to dentistry for the first time. This will bring professions complementary to dentistry under the same regulatory regime as dentists, for example they will be subject to a fitness to practise regime, will be required to satisfy specific educational requirements and undertake continuing professional development.

7.2 At present, only two types of dental auxiliaries - dental hygienists and dental therapists - are regulated by the General Dental Council. They work under the direction of dentists on lists of permitted duties which restrict their discretion in a mechanistic way which may not be necessary for the protection of patients. This is not fully compatible with Government policies to allow the redesign of care around patient needs by allocating different roles to staff, and to encourage staff to build up skills so that they can work at a higher level. Under the new system of regulation, dental hygienists and dental therapists will no longer be subject to the restrictions which have previously applied to them.

7.3 The Department carried out a three-month public consultation on the draft Dentists Act 1984 (Amendment) Order 2005. This covered the issue of the regulation of professions complementary to dentistry. Over 70 responses were received from a wide range of individuals and groups. There was strong support for the proposed changes to regulation of professions complementary to dentistry with over 73 per cent in favour. Some minor concerns were raised about patient protection and the need for adequate monitoring and training for the new groups. None were of such significance as to warrant changes to the proposals.

7.4 The General Dental Council carried out its own public consultation on the regulation of professions complementary to dentistry. Approximately 200 copies of the consultation document were issued to stakeholder organisations, education and training providers, patient and consumer groups, defence organisations and the departments of health. The consultation document was also posted on the General Dental Council website and publicised widely in the dental press. One hundred and twenty two different responses were received from organisations (43) and individuals (79). Responses overall were supportive of the changes.

7.5 It is government policy that, with appropriate safeguards for patient safety, dental care professionals other than dentists should be allowed to carry on the business of dentistry. This would mean, for example, that when these rules were in force a clinical dental technician (sometimes known as a denturist) could carry on a business trading directly with patients in which he or she fitted them with dentures and supplied those dentures direct to them for a fee. At present dental technicians can only lawfully do this via a dentist. The government considers that this will make services more available to patients and potentially benefit them by reducing charges through introducing competition. These changes respond to recommendations in the Office of Fair Trading report on private dentistry. Patients will be safeguarded by extending the system of professional regulation to all the groups who gain the right to practise dentistry. The General Dental Council becomes the regulator of

dentistry, practised by members of the six professional groups listed in therse Rules, rather than of dentists alone.

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.

9. Contact

9.1 Stephen Arthur at the Department of Health (Tel: 0113 254 5789 or e-mail: Stephen.Arthur@dh.gsi.gov.uk) can answer any queries regarding the instrument.