EXPLANATORY MEMORANDUM TO

THE GENERAL MEDICAL COUNCIL (CONSTITUTION OF PANELS AND INVESTIGATION COMMITTEE) (AMENDMENT) RULES ORDER OF COUNCIL 2009

2009 No. 2751

THE GENERAL MEDICAL COUNCIL (FITNESS TO PRACTISE) (DISQUALIFYING DECISIONS AND DETERMINATIONS BY REGULATORY BODIES) PROCEDURE (AMENDMENT) RULES ORDER OF COUNCIL 2009

2009 No. 2765

THE GENERAL MEDICAL COUNCIL (REGISTRATION APPEAL PANELS PROCEDURE) (AMENDMENT) RULES ORDER OF COUNCIL 2009

2009 No. 2752

AND

THE GENERAL MEDICAL COUNCIL (VOLUNTARY ERASURE AND RESTORATION FOLLOWING VOLUNTARY ERASURE) (AMENDMENT) REGULATIONS ORDER OF COUNCIL 2009

2009 No. 2763

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 instruments

2.1 These Orders relate to the introduction of the Licence to Practise and make other changes to General Medical Council Rules and Regulations. The Orders approve the changes to a number of sets of Rules and Regulations. These changes were made in four separate instruments by the General Medical Council on 10th September 2009 under their powers under the Medical Act 1983 ("the Act"). The instruments scheduled to the Orders referred to in this memorandum come into force on 16th November 2009.

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

3.1. None

4. Legislative Context

4.1. The Rules and Regulations approved by the current Orders make minor changes to existing GMC legislation as follows:

- The General Medical Council (Constitution of Panels and Investigation Committee) (Amendment) Rules Order of Council 2009;
- The General Medical Council (Fitness to Practise) (Disqualifying Decisions and Determinations by Regulatory Bodies) Procedure (Amendment) Rules Order of Council 2009;
- The General Medical Council (Registration Appeals Panel Procedure) (Amendment) Rules Order of Council 2009; and
- The General Medical Council (Voluntary Erasure and Restoration following Voluntary Erasure) (Amendment) Regulations Order of Council 2009.

5. Territorial Extent and Application

5.1. These instruments apply to the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

- ***What is being done and why***

7.1. The General Medical Council ("the GMC") is the independent regulator for doctors in the UK. Its main objective is to protect, promote and maintain the health and safety of the public by ensuring proper standards in the practice of medicine. The current Orders relate to various aspects of its procedures for registration and issuing a licence to practise (described in more detail in paragraph 8).

7.2. Licensing will be in place from 16th November 2009 when the GMC regulations take effect (see Explanatory Memorandum relating to SI 2009/2739). The principle of licensing is that medical practitioners previously required by UK law to be fully registered will also need to hold a licence to practise.

7.3. The current changes to the GMC's rules and regulations provide for updating of references in the light of this and other legislative & administrative changes. They also amend references to the GMC's Fees Regulations in the light of the recent making of the GMC's Fees Regulations

of 2009. There is also one procedural change in relation to appeals proceedings.

- **Details of the Orders**

The General Medical Council (Constitution of Panels and Investigation Committee) (Amendment) Rules Order of Council 2009

7.4. The Rules approved by this Order make minor changes to rules 2, 3, 4, 5, 6 and 7, of the General Medical Council (Constitution of Panels and Investigation Committee) Rules 2004. These alter the definition of "lay" in relation to Committee members to mirror the definition introduced to the Act by S.I. 2008/1774 and update the reference to Registrations Decisions Panel (now "Registration Panel").

The General Medical Council (Fitness to Practise) (Disqualifying Decisions and Determinations by Regulatory Bodies) Procedure (Amendment) Rules Order of Council 2009

7.5. The Rules approved by this Order make minor changes to rules 2, 4 and 5 of the General Medical Council (Fitness to Practise) (Disqualifying Decisions and Determinations by Regulatory Bodies) Procedure Rules 2004. These update references in the 2004 Rules and correct a minor typographical omission.

The General Medical Council (Registration Appeals Panel Procedure) (Amendment) Rules Order of Council 2009

7.6. The Rules approved by this Order make changes to rules 2, 4(c), 5(b)(i) and (ii) and substitute rule 11 of the General Medical Council (Registration Appeal Panels Procedure) Rules 2005. These amendments update references in relation to licensing, and references to the Registration Panel. They also make provision for public hearings in relation to the Panel's proceedings.

The General Medical Council (Voluntary Erasure and Restoration following Voluntary Erasure) (Amendment) Regulations Order of Council 2009.

7.7. The Regulations approved by this Order make minor changes to regulations 2, 3 and 4 of the General Medical Council (Voluntary Erasure and Restoration following Voluntary Erasure) Regulations 2004 and omit regulation 7. These remove cross-references to fees regulations, and up-date other references in the 2004 Regulations in light of the advent of licensing and an administrative change.

- **Consolidation**

7.8 There are no plans to consolidate these Rules and Regulations.

8. Consultation Outcome

8.1 The rules and regulations scheduled to the Orders covered by this Memorandum were included in the public consultation conducted by the GMC on their License to Practise Regulations (covered under a separate Memorandum) and associated guidance between 21 Jan 2009 and 21 April 2009.

8.2 The consultation yielded 316 responses; 256 from individuals (mostly doctors) and 60 from organisations. The result of the consultation showed clear support for the GMC's proposals in relation to the introduction of licences. A full report of the consultation can be found on the GMC's website

9. Guidance

9.1. The Department of Health has not issued any guidance in relation to this Order.

9.2. The General Medical Council publish guidance relating to its Licences to Practise on its website. It will also update its website to reflect the changes described in this memorandum once they are in force.

10. Impact

10.1. There is minimal impact on business, charities or voluntary bodies. There is no negative impact on equality issues.

10.2. There is no impact on the public sector.

11. Regulating small business

11.1. The legislation does not apply to small businesses.

12. Monitoring and review

12.1 The Regulations and Rules will be reviewed internally by the GMC after three years

13. Contact

13.1. Rab Harkins at the Department of Health Tel: 0113 254 6788 or email: Rab.Harkins@dh.gsi.gov.uk can answer any queries regarding the instrument.