EXPLANATORY MEMORANDUM TO

THE GENERAL MEDICAL COUNCIL (MAXIMUM PERIOD OF PROVISIONAL REGISTRATION) REGULATIONS ORDER OF COUNCIL 2015

2015 No. 92

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"), pursuant to section 31(4A) of the Medical Act 1983.

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

3.1 The Regulations will limit the time that a doctor can hold provisional registration. Provisional registration is granted solely to allow doctors to take part in the first year of the Foundation programme (F1). This period of training enables newly qualified UK medical school graduates (and some EEA nationals and international medical graduates) to develop their clinical and professional skills, under supervision, in the workplace. Doctors must demonstrate that they meet the standards and competencies described in the GMC's guidance, *The Trainee Doctor* and obtain a certificate of experience before they can apply for full registration.

3.2 Most doctors proceed to full registration within 12 months of gaining provisional registration after medical school. However a small number – typically 300 doctors each year – are unable to demonstrate the competences required by the first year of the Foundation Programme by the end of those 12 months. At the moment, these doctors can hold provisional registration indefinitely, as long as they carry on paying their annual retention fee and are not removed from the register as a result of a finding that their fitness to practise is impaired – even if they are not training in the Foundation Programme anymore.

3.3 In summary, the Regulations-

(a) limit the time that a doctor can hold provisional registration to 1,125 days (three years and 30 days). This will give doctors enough time to attempt the F1 year three times (subject to permission from their training provider) in order to meet the competencies required;

(b) provide that provisional registration expires at the end of the period referred to in (a);

(c) ensure that doctors will not be disadvantaged where they are participating in training but require more time, by allowing doctors to request a 'period of disregard' which will not count towards their remaining provisional registration period.

3.4 In introducing a time limit on provisional registration, the Regulations deal with two issues:

- Provisional registration limits the scope of a doctor's practice to F1 training programmes. If a doctor is no longer in an F1 training programme, there is no need for them to be provisionally registered. Introducing a time limit will reduce the risk of doctors who are not in training inadvertently or intentionally working in roles outside the limits of their registration.

- Additionally, there are currently some doctors who retain provisional registration without intending to continue with a medical career, and others who, despite repeated attempts, are unable to demonstrate the required competencies. Introducing a time limit will provide an additional way of addressing the potential risks associated with these groups of doctors.

4. Legislative Context

4.1 In 2006, the Medical Act 1983 was amended to give the GMC the power to make regulations to set a maximum period of provisional registration (section 31 (4A)).

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 GMC's consultation "Modernising the New Doctor: A consultation on PRHO Training" which took place between February and April 2004, referred to the possible benefits of a time limit on the PRHO training (now known as the Foundation year 1 following the establishment of the Foundation programme).

7.2 In September 2004 the GMC approved the outcome of the consultation and agreed that in order make reforms to PRHO training, the Medical Act would need to be amended through a S60 Order (Section 60 of the Health Act 1999 provides for Her Majesty by Order in Council to modify the regulation of those professions already regulated by statute and to bring into statutory regulation any other health care profession not currently regulated).

7.3 The Department of Health undertook a public consultation (the Medical Act 1983 (Amendment and Miscellaneous Amendments) Order 2006)) which was approved by Parliament in 2006. The Medical Act 1983 was then amended to give the GMC a new power to make regulations setting a maximum period for which a doctor may be provisionally registered (see new subsection (4A) of section 31 of that Act).

7.4 Following the introduction of licensing and revalidation in September 2011, the Postgraduate Board of the GMC agreed to introduce a time limit on provisional registration.

Transitional arrangements

7.5 The time limit will affect two main groups: medical students who will graduate and apply for provisional registration after the implementation of the new policy, and doctors currently holding provisional registration.

7.6 Doctors holding provisional registration on the date these changes come into force will be permitted a further period of provisional registration of 1,125 days (three years and 30 days) from that date.

7.7 Doctors granted provisional registration on, or after, the date the Regulations come into force will have a period of provisional registration of 1,125 days.

8. Consultation outcome

8.1 The GMC consulted, from April to June 2014, on draft regulations to implement a time limit on the period for which a doctor may hold provisional registration. The consultation was published on its website (http://www.gmc-uk.org/news/24503.asp). The consultation sought views on the main effects of the draft regulations and how they would be applied. The GMC sent an email with a direct link to the consultation to 628 provisionally registered doctors who had held provisional registration for more than 12 months. They also sent a similar email (with a link to the consultation) to 134 relevant organisations, including medical education and training providers, medical employers, organisations representing doctors and medical defence organisations.

8.2 The GMC received 91 responses in total. In general, stakeholder organisations were in favour of the proposed regulations. However, individual respondents were less supportive. Many respondents held the view that doctors should be able to start their foundation programme training at any point and take as long as they need to complete it. The GMC feel that the provisions that have been made in the regulations address these concerns. If registrants wish to take a career break, doctors will be able to voluntarily erase their registration, meaning that the period of time that they are not registered will not count towards their period of provisional registration. The voluntary erasure and restoration process will be free of charge for this group of doctors and, for those who are not subject to investigations into their fitness to practise; it is a straightforward administrative process.

8.3 In light of the comments received during the consultation. The GMC has therefore amended the regulations to allow a doctor the time they need to complete the F1 programme, by allowing doctors to request a 'period of disregard'. This means that where applicants need extra time to complete the programme, this time will not count towards the maximum period of provisional registration. A request must be supported by a declaration (confirming that the doctor has permission to participate in an F1 training programme and would not be able to complete this without a 'period of disregard') from the organisation responsible for delivering its F1 programme which will usually be a postgraduate deanery or local education and training Board (LETB).

Each period is limited to a maximum of one year, however an applicant can make more than one request for a 'period of disregard' if they continue to meet the criteria. This will provide a more flexible approach for doctors who are participating in an F1 programme but may require additional time to meet the required competencies.

9. Guidance

9.1 Prior to the implementation of the changes, the GMC will update its online information as well as providing guidance for affected and potentially affected doctors and for organisations working with provisionally registered doctors. The GMC will also communicate directly with all doctors holding provisional registration in advance of the regulations coming into force and, after that date, will write to all doctors holding provisional registration at regular intervals to let them know how much of their period is remaining.

10. Impact

10.1 The GMC has undertaken an Equality Analysis. This indicated that the proposals have the potential to impact disproportionately on certain groups of doctors who require additional time to complete their training, such as those who have had periods of illness, or those who have taken time out of their medical career to care for dependents. The proposals may therefore affect doctors who have protected characteristics (pregnancy and maternity and disability).

10.2 Taking into account feedback from the consultation, the GMC has proposed amendments to the Regulations to ensure that those doctors who may have protected characteristics (particularly disability and pregnancy and maternity) are able to take the time they need to complete the F1 programme.

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 GMC will keep the Regulations under on-going review.

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.