EXPLANATORY MEMORANDUM TO

THE GENERAL OPTICAL COUNCIL (CONTINUING EDUCATION AND TRAINING RULES) (AMENDMENT) ORDER OF COUNCIL 2012

2012 No. 2882

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 This Order seeks to amend the General Optical Council (Continuing Education and Training Rules) Order of Council 2005, which established a scheme for the continuing education and training of optometrists and dispensing opticians.

2.2 The main purpose of the Order is to ensure that the education and training requirements are targeted to specific training needs which relate to the competencies relevant to each professional group. There are also changes relating to the removal of registrants from the register where those registrants have failed to comply with the training requirements as imposed by the Rules.

3. Matters of special interest to the [Joint Committee on Statutory Instruments *or* the Select Committee on Statutory Instruments]

3.1 None

4. Legislative Context

4.1 The General Optical Council (Continuing Education and Training) Rules 2005 were amended by the General Optical Council (Continuing Education and Training) (Amendment 2) Order of Council 2006 (S.I. 2006/2901) which increased the fee payable for an application to be a listed provider from £35 to £45, and made changes to the provisions relating to restoration.

4.2 The Rules were further amended by the General Optical Council (Therapeutics and Contact Lens Specialities) Rules Order of Council 2008 (S.I. 2008/1940) which introduced a separate category of "therapeutics specialities", which provided that a registrant who had more than one therapeutics specialty need only obtain one set of speciality points per three year cycle.

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 General Optical Council (Continuing Education and Training Rules) Order of Council 2005 ("the Rules") established a statutory scheme for the continuing education and training of optometrists and dispensing opticians ("the Scheme"). The Scheme operates on a three yearly cycle and requires registered optometrists and registered dispensing opticians ("registrants") to undertake a specified amount of training (loosely based on hours but varied according to modality eg: distance learning, face to face s) during each cycle. However, there is no specification of the content of training required or for the training to reflect the competencies relevant to a particular registrant's practise, enabling compliance with the Rules by undertaking study that has little or no relevance to a registrant's work with patients.

7.2 The policy changes to the Scheme are in response to the White Paper 'Trust Assurance and Safety, and the command paper 'Enabling Excellence: Autonomy and Accountability for Health and Social Care Staff. They are intended to provide an effective and proportionate mechanism for the General Optical Council ("the Council") to assure itself of its registrants continued fitness to practise.

7.3 The Council has developed a strong evidence base for the need to enhance the Scheme. The Council's research includes a review of the risks associated with optical practice, an evaluation of the effectiveness of the existing scheme and the likely impact of different learning methods in addressing the risks. Their research also considered opportunities for the use of appraisal and public patient feedback. The full evidence base can be found at: http://www.optical.org/en/our_work/Education/enhanced-cet-post--2012/why-is-cet-changing.cfm

7.4 The changes will require registrants to undertake education and training which is relevant to their scope of practise, targeted to areas of risk in optometric practise and accredited against the Council's standards of competence and conduct relevant to each professional group. They are intended to provide for the education and training requirements being more targeted to specific training needs; and specifically to:

7.4.1 Require registrants to undertake peer review events and complete education and training by way of interactive methods of learning; this is to ensure practitioners reflect on their own and others practise and do not become professionally isolated with no contact with their peers.

7.4.2 Require registrants to undertake education and training to maintain an up to date knowledge and skill across all of the Council's standards of competence and conduct relevant for their professional group and scope of practise.

7.4.3 Enable a more timely removal of those registrants who fail to meet the training requirements and are no longer considered fit to practise.

7.4.4 Eliminate a loophole in the current system by strengthening the provisions relating to the restoration of a person to the register.

7.5 The Policy changes will provide a more effective mechanism for protecting the public by ensuring that only those who continue to maintain relevant knowledge and skills are considered to be fit to practise and remain on the Register.

7.6 The Rules are being amended in order to maximise the protection of the public by ensuring that those who have not undertaken the required training are removed from the register as soon as possible at the end of the three year cycle. The Scheme currently allows for a three month period at the end of the cycle to enable the registrant to make up any shortfall of training points. However, some registrants are treating the shortfall period as an extended period of the cycle, rather than in exceptional circumstances, to complete their cycle of training. The changes in policy remove this shortfall period so that a registrant will no longer have the additional period between 1st January and 1st April to make up any shortfall before a decision to remove is made by the registrar.

7.7 Sufficient protection/safeguards are built into the new changes by the addition of a notice which is required to be given to registrants two months before the end of the cycle, informing them they have not met the requirements, and warning them if they fail to do so by the end of the cycle they may be removed from the register from 1st January.

7.8 In addition, the decision to remove a registrant from the register is a decision which may be appealed under the Opticians Act 1989. The registrant can appeal to the Registration Appeals Committee within 28 days of the decision being made. The decision to remove is suspended for those 28 days and if an appeal is lodged within that time is further suspended until the Committee makes a decision. During that period the registrant may make up any shortfall in requirements. Thus, in effect registrants have the chance to make up any shortfall of training requirements before they are actually removed.

7.9 The provisions with regard to specialities have in certain respects been simplified. The specialities open to registered opticians are set out in the General Optical Registration Rules (Registration Rules) 2005. A dispensing optician may have the contact lens specialty and an optometrist may have one or more of the therapeutics specialties. The General Optical Council's policy is that only one set of specialty points needs to be undertaken regardless of

whether this is a contact lens speciality or one or more of therapeutics specialty. It is therefore not necessary to have separate provisions for those specialities but to incorporate the policy under one rule. The reference to "therapeutics specialties" has for the purposes of these Rules become redundant and therefore has been removed.

7.10 With regard to the new requirements, that all competencies are to be covered in the approved events to be undertaken, the Rules only impose this requirement after 12 months of being on the register has passed. This is on the basis that it would be unreasonable to expect registrants/applicants for restoration to cover all competencies in any lesser period.

7.11 The 2005 Rules have been amended twice but given that the essential framework remains the same and the majority of the rules are not being amended, it was decided to amend the 2005 further rather than consolidate them on this occasion. However, if the Rules require further amendment the Department will consider at that time whether consolidation would be more appropriate.

8. Consultation outcome

8.1 In the period 2009 to 2011 the Council undertook a comprehensive consultation exercise in respect of its proposals to revalidate its registrants, specifically including proposals to amend its Scheme. The findings of the consultation can be found at: http://www.optical.org/en/our_work/Education/enhanced-cet-post--2012/why-is-cet-changing.cfm

8.2 The consultation included a formal consultation exercise followed by a series of stakeholder events and workshops for both patient / public representatives, wider stakeholder groups and registrants. Events were held across the UK, specifically including Wales, Scotland and Northern Ireland.

8.3 The Council also established two stakeholder groups (one for optical stakeholders and one for public patient engagement) who have been regularly consulted and actively engaged throughout the development process.

8.4 The optical professional and representative bodies have publically expressed their support for the changes the Council is seeking to make to its Scheme.

9. Guidance

9.1 The Department of Health has not issued any guidance. The Council has published a factsheet called Enhanced CET – The Facts. Link: http://www.optical.org/goc/filemanager/root/site_assets/publications/information_sheets/enhanced_cet_-_the_facts.pdf

10. Impact

10.1 A full Impact Assessment was completed by the GOC, which evaluates the expected outcomes of the enhancements to the CET Scheme and costs associated with these changes. The report concludes that the enhancements to the CET scheme do provide an appropriate and proportionate mechanism to address the risks associated with optometric practise.

10.2 The full report can be found at: http://www.optical.org/goc/filemanager/root/site_assets/council_papers/april_2012/c23_12_-_cet_cost_benefit_analysis_research.pdf

11. Regulating small business

11.1 The legislation applies to small business. The GOC conducted a full impact assessment and cost benefit analysis in respect of the policy changes to its CET scheme. The impact assessment identified the costs associated with compliance with the new requirements for individual registrants and businesses and concluded that the CET Grant for Optometrists is sufficient to cover the costs of time out of practice in order to attend a peer review session, which along with the availability of free CET provided by the Professional Bodies to their members across all of the competency areas and in a range of learning methods including distance learning and web based provision ensures that sufficient provision is ready available to registrants at little or no cost and therefore the enhanced scheme places no additional financial burden on individuals or businesses.

The impact assessment also concluded the CET scheme requirements do not disadvantage any of the devolved nations or those with disabilities. The scheme has provisions to manage legitimate barriers to physical attendance at events or peer review through the use of technology such as Internet and real time audio visual services.

12. Monitoring & review

12.1 The IT system the GOC has developed to support the scheme will provide a web based repository for every registrants CET portfolio, it supports auditing of 100% of registrants portfolios on a three yearly basis to determine compliance with the requirements and annual monitoring to track those not on target. Additional sampling and targeted auditing of portfolios via the web based CET platform will determine quality of reflection statements and portfolios. The scheme requires advance approval of all CET provision using a process of assessment against the GOC standards of competence and conduct, this provides assurance as to the relevance and suitability of provision. A combination of random and targeted audit of provision and feedback will determine quality and comprehensive data provided by the IT system will be used to support the evaluation of the effectiveness of the scheme in addressing the risks identified and in providing a suitable mechanism for determining a registrants continued fitness to practise.

13. Contact

Dave Smith at the Department of Health (email: Dave.M.Smith@dh.gsi.gov.ukemail) can answer any queries regarding the instrument.