EXPLANATORY MEMORANDUM TO

THE POSTGRADUATE MEDICAL EDUCATION AND TRAINING ORDER OF COUNCIL 2010

2010 No. 473

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 prescribes the categories of registered medical practitioners, other than those who have been awarded a Certificate of Completion of Training (CCT), who are eligible for inclusion in the GP Register and the Specialist Register kept by the General Medical Council (GMC). The eligibility criteria reflect the content of Directive 2005/36/EC concerning the recognition of professional qualifications.

2.2 This Order is made under powers inserted into the Medical Act 1983 ("the 1983 Act") by the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2010 (S.I.2010/234) which itself is made under powers in section 60 of the Health Act 1999 ("the section 60 Order").

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

3.1 None

4. Legislative Context

4.1 This Order is part of a sequence of statutory instruments relating to the abolition of the Postgraduate Medical Education and Training Board ("PMETB") and the transfer of its functions to the GMC (see paragraph 7.1 below). It was consulted upon simultaneously with the section 60 Order but as this Order relies on powers taken in the section 60 Order, this Order cannot be made until the section 60 Order becomes law.

4.2 The provisions of this Order reflect those currently in the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003 (S.I.2003/1250) which prescribes the categories of registered medical practitioners who are eligible for entry into the General Practitioner and Specialist Registers. This includes those who are on the list of visiting medical practitioners from the EU who are practising in this country on a temporary and occasional basis. Once they cease to be eligible to be registered under this category, this Order provides for their removal from those registers.

4.3 This Order also prescribes when general practitioners are considered to have acquired rights to practice as a general practitioner in the UK.

4.4 This Order also prescribes the qualifications granted outside the United Kingdom which must be recognised when determining whether or not a registered medical practitioner is eligible for entry on to the Specialist Register. It also lists the medical specialties which the UK recognises and the minimum training periods, if any, for those specialties.

4.5 In addition to the legislative provisions contained both in this Order and the section 60 Order, it is necessary to put in place a suite of rules and regulations covering operational matters such as application procedures, evidential requirements, notification of decisions, fees and arrangements for appeals. The section 60 Order amends the 1983 Act to take the necessary powers to enable the GMC to make those rules and regulations which will have to be enacted by further statutory instruments, thus ensuring that all of those processes and procedures will be fair, transparent and subject to Parliamentary scrutiny.

5. Territorial Extent and Application

5.1 This Order extends to all of the United Kingdom.

6. European Convention on Human Rights

6.1 As this instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

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

7.1 The initial proposal for change resulted from recommendations made in the report of the Tooke Inquiry, an independent inquiry commissioned by the Secretary of State to investigate the extent to which Modernising Medical Careers had engaged the medical profession, and to make recommendations to ensure that it had the support of the profession. The Inquiry noted that the system for overseeing postgraduate medical education and training involved two bodies, the GMC and the PMETB, who had overlapping functions. It recommended that the PMETB should be merged into the GMC, to form a single body with responsibility for setting and maintaining standards across the continuum of medical education. The Secretary of State accepted the recommendation and made a commitment to merge the PMETB and the GMC by April 2010.

7.2 Realising the full benefits of the merger will take time. In line with the recommendation that integration should take place as quickly as possible, it made sense to integrate all of the functions within the GMC in advance of a more comprehensive review to gain the advantages already identified. The section 60 Order has implemented the merger, and work is underway on a comprehensive review of the regulation of medical education and training led by Lord Patel, Chairman of the National Patient Safety Agency. This review

involves extensive consultation with stakeholders and it is expected that as a result of the review, there will be a need for further legislation.

8. Consultation outcome

8.1 The Department of Health carried out formal public consultation jointly on this Order and the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2010 over a 12-week period between 4 June and 28 August 2009. The consultation paper *"The General and Specialist Medical Practice (Education, Training and Qualifications) Order 2010 and The Postgraduate Medical Education and Training Order of Council 2010 – A Paper for Consultation"* was published on the Department of Health website, as well as the websites of the GMC and the PMETB. The Department of Health wrote to the Medical Royal Colleges, devolved administrations and other interested professional bodies, patient groups and professionals to inform them of the consultation exercise and to invite them to participate.

8.2 In total, thirty-five responses were received, representing a mix of bodies/organisations and individual professionals, including major stakeholders in the field of medical education and training. All were reviewed as part of the consultation.

8.3 Overall, all bar one of the response was positive and nothing in this Order caused major concern. There have been a couple of changes to this Order following consultation however, as Legal advisers took the view that the articles relating to eligibility criteria for entry on the General Practitioner and Specialist Registers could be interpreted as applying exclusively to exempt persons, which was not the intention. Therefore, these were redrafted to make it clear that this was not the case.

9. Guidance

9.1 The GMC and the PMETB will inform their stakeholders of the changes in this Order. Further statutory instruments will cover operational matters, and the GMC will issue guidance on these as appropriate.

10. Impact

10.1 As fees currently charged for entry onto the General Practitioner and Specialist Registers by PMETB will not be increased for the time being, there will be minimal financial impact and so an Impact Assessment has not been prepared for this Order. An Impact Assessment was prepared for the section 60 order however, and the figures in that assessment are still accurate. This Impact Assessment has been published alongside the joint consultation analysis report on the Department of Health website and can be viewed at: http://www.dh.gov.uk/en/Consultations/Responsestoconsultations/DH_108327

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11. Regulating small business

11.1 The legislation does not relate to small businesses.

12. Monitoring and review

12.1 When fully implemented, the recommendation of the independent inquiry to merge the PMETB with the GMC and provide a single regulatory authority will result in economies of scale, a common approach to medical education and training, linkage of accreditation with registration and the sharing of quality enhancement expertise.

13. Contact

13.1 Matthew Fagg at the Department of Health Tel: 0113 254 6365 or e-mail: Matthew.Fagg@dh.gsi.gov.uk can answer any queries regarding the instrument.