

EXPLANATORY MEMORANDUM TO
THE GENERAL DENTAL COUNCIL (CONSTITUTION) ORDER OF
COUNCIL 2006

2006 No. 1666

THE GENERAL DENTAL COUNCIL (FITNESS TO PRACTISE) RULES
ORDER OF COUNCIL 2006

2006 No. 1663

THE GENERAL DENTAL COUNCIL (REGISTRATION APPEALS) RULES
ORDER OF COUNCIL 2006

2006 No. 1668

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 three Orders concern:
 - the constitution of the General Dental Council.
 - the procedure for dealing with Fitness to Practise proceedings against dentists and dental care professionals, and
 - the procedure for determining appeals against decisions relating to the registration of dentists and dental care professionals.
 - 2.2 The **General Dental Council (Constitution) Order of Council 2006** specifies the constitution of the General Dental Council and:
 - Specifies the number of members of the Council in each category (dentists, dental care professionals, and lay members),
 - Specifies how the lay members will be appointed, and
 - Makes provision for the tenure, termination of office and provisions for by-elections of members.
 - 2.3 **The General Dental Council (Fitness to Practise) Rules Order of Council 2006** approves Rules made by the General Dental Council which set out the procedures to be followed by the Investigating Committee, Health Committee, Professional Conduct Committee, Professional Performance Committee and Interim Orders Committee of the General Dental Council. The Rules relate to

proceedings against both dentists and members of professions complementary to dentistry and cover proceedings relating to a practitioner's fitness to practise and also those relating to whether an entry in the dentists register or the dental care professionals register has been fraudulently procured.

- 2.4 **The General Dental Council (Registration Appeals) Rules Order of Council 2006** approves Rules made by the General Dental Council. These Rules provide for the procedure to be followed by the Registration Appeals Committee of the General Dental Council when determining an appeal by a person against a decision relating to the registration of dentists and dental care professionals.

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

- 3.1 None

4. Legislative Background

- 4.1 These three Orders are made under powers in the Dentists Act 1984, which was substantially amended by the Dentists Act 1984 (Amendment) Order 2005 (SI 2005/2011).
- 4.2 The General Dental Council (Registration Appeals) Rules and the General Dental Council (Fitness to Practise) Rules are made under powers in Schedules 3 and 4B of the Dentists Act 1984. Those Schedules were substituted or inserted by the Dentists Act 1984 (Amendment) Order 2005. The new Schedule 3 provides powers for rules to set out procedures in relation to fitness to practise proceedings against dentists (updating the previous Schedule 3 as a consequence of the reform of fitness to practise provisions contained in the Dentists Act 1984 (Amendment) Order 2005); and the new Schedule 4B provides equivalent powers for rules to set out procedures in relation to fitness to practise proceedings against members of professions complementary to dentistry.
- 4.3 The General Dental Council (Constitution) Order is made in exercise of powers conferred under section 1(2A) and (2B) of the Dentists Act 1984. These powers were amended by the Dentists Act 1984 (Amendment) Order 2005 to provide for the constitution of the General Dental Council by means of an Order of the Privy Council, rather than (as previously) by means of an Order in Council. The Order does not make any substantive changes to the constitution of the General Dental Council, but aims to update references as a result of the changes made by the Dentists Act 1984 (Amendment) Order 2005.
- 4.4 These three Orders form part of a package of instruments implementing the Dentists Act 1984 (Amendment) Order 2005.

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 modernise Fitness to Practise procedures for both dentists and dental care professionals. The Order makes changes to the procedures for handling of misconduct and ill health related problems amongst dental professionals, and introduces new procedures to tackle problems of poor performance. It will update the operation of the fitness to practise system for dentists and dental care professionals whose performance falls short of acceptable standards. The Order introduces further flexibility in the application of sanctions where a dental professional has been found to have impaired fitness to practise, for example the availability of conditional registration in certain circumstances.

7.2 A further objective of the Dentists Act 1984 (Amendment) Order 2005 was the creation of a mechanism for people to appeal against refusal of registration or restoration to the dentists register or the dental care professionals register, in line with the Human Rights Act. The only existing avenue of appeal was through a judicial review of the decision.

7.3 The consultation carried out by the Department of Health on the Dentists Act 1984 (Amendment) Order 2005 covered the proposals for changes to the fitness to practise procedures and the creation of rights of appeal against registration decisions. In both cases respondents were overwhelmingly supportive of the proposals. The only area of contention was the minimum period of erasure from the dentists register or the dental care professionals register. Respondents commented that the five year minimum was inflexible and should be changed. However, as the minimum five year period brings dentists and dental care professionals in line with doctors and the GDC will be able to use a range of lesser penalties short of erasure, the five year period was retained.

7.4 The General Dental Council also carried out a further public consultation on its Fitness to Practise and Registration Appeals rules. The Council consulted a wide range of patient, consumer, health service, public and professional organisations. The consultation was also advertised on the GDC's website. A total of 55 responses were received. The responses were supportive of the changes suggested and did not raise any major policy issues which the Fitness to Practise Policy Committee and Council had not previously considered.

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.