

<b>Agenda item:</b>	<b>8</b>
<b>Report title:</b>	<b>Insurance and indemnity: changes to the Licence to Practise and Revalidation Regulations 2012</b>
<b>Report by:</b>	<b>Una Lane</b> Director, Registration and Revalidation <a href="mailto:ULane@gmc-uk.org">ULane@gmc-uk.org</a> , 020 7189 5164
<b>Considered by:</b>	<b>Strategy and Policy Board</b>
<b>Action:</b>	<b>To approve</b>

### Executive Summary

We are making amendments to our *Licence to Practise and Revalidation Regulations 2012* following our recent consultation. These amendments bring into effect the new statutory duty on all healthcare professionals to have appropriate insurance or indemnity cover for their practice. Doctors are already subject to a professional duty to this effect set out in *Good medical practice*.

The amendments will mean that:

- Doctors will need to include a declaration on insurance and indemnity in any application for a licence to practise in order for it to be complete.
- We will have the power to request information from the doctor or another party to satisfy ourselves that the declarations are accurate and to determine whether the doctor has appropriate cover in place.
- We will have the ability to refuse to grant or to withdraw a licence for failure to have appropriate cover or failure to comply with our requirements to provide the declaration or further information we might request.

### Recommendations

- a To agree and make the amended Regulations which comprise the General Medical Council (Licence to Practise and Revalidation) (Amendment) Regulations Order of Council 2015 (2015 Regulations) at [Annex A](#).
- b To authorise the Chair of Council and the Chief Executive to apply the Corporate Seal to the 2015 Regulations.

## Issue

- 1 This paper sets out proposed changes to the *Licence to Practise and Revalidation Regulations 2012* (2012 Regulations) following our recent consultation. These changes will enable us to implement the recommendations of an independent review of insurance and indemnity for healthcare professionals, commissioned by the Department of Health in 2009.
- 2 The consultation on the main effects of the proposed changes to the 2012 regulations was held between 15 October and 10 December 2014. We received 31 responses – 16 from individuals and 15 from key interest organisations.
- 3 An external audit of our consultation report provided assurance on the quality of our analysis of the feedback received. The consultation report is available [online here](#), and the audit report is available on request.

## The proposed changes

- 4 There was a high level of support for our proposals from both individuals and organisations.
- 5 In the light of subsequent discussion with the Department of Health, we decided to remove Regulation 4A(2)(a) and (b) from the draft Regulations. These provisions would have given us the power to require a licensed practitioner to inform us if they have appropriate cover provided under an indemnity arrangement by an employer and if their indemnity cover ceases. This is because we already have a general power to request information under Regulation 4A(a) and (b). Lawyers on both sides agreed that a further specific provision was unnecessary.
- 6 We are asking Council to make the amended 2015 Regulations as set out at [Annex A](#). The amendments will mean that:
  - a There will be a requirement to include a declaration on insurance and indemnity in any application for a licence to practise in order for it to be complete.
  - b We will have the power to request information from the doctor or another party to satisfy ourselves that the declarations are accurate and to determine whether the doctor has appropriate cover in place.
  - c We will have the ability to refuse to grant, or to withdraw, a licence for failure to have appropriate cover or failure to comply with our requirements to provide the declaration or further information we might request.

### **What equality and diversity considerations relate to this issue**

- 7** An equality impact assessment was undertaken by the Department of Health when considering the necessary changes to the primary legislation and their consultation asked for feedback on any equalities issues that would result from the implementation of the amended legislation. None were subsequently identified. In addition, there is already a professional duty on doctors to have adequate and appropriate insurance or indemnity cover at all times so this should not be an additional burden.
  
- 8** However, in developing the amended Regulations we took into account that a doctor's registration and licensing requirements can change with their personal circumstances, such as periods of ill health, pregnancy or career breaks. For this reason, although we will have the power to do so, we will not routinely require doctors to inform us each time their cover ceases or employment status changes, for example due to reasons associated with the characteristics of disability, gender, and pregnancy and maternity which are protected under the Equality Act 2010.

### **Next steps**

- 9** Once Council has agreed and made the amended Regulations, the Chair of Council and Chief Executive will apply the Corporate Seal. The 2015 Regulations will then be submitted to Privy Council for approval and then laid before Parliament. We plan to implement the changes on 1 August 2015. The General Election in May 2015 might impact on that timetable. We will therefore keep the implementation date under review.

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 S T A T U T O R Y   I N S T R U M E N T S
 

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**2015 No.\*\*\***

**HEALTH CARE AND ASSOCIATED PROFESSIONS**

**DOCTORS**

**The General Medical Council (Licence to Practise and  
Revalidation) (Amendment) Regulations Order of Council 2015**

*Made* - - - - - \*\*\*2015  
*Laid before Parliament* \*\*\*2015  
*Coming into force* - - - - - \*\*\*2015

At the Council Chamber, Whitehall, the \*\*\* day of \*\*\*

By the Lords of Her Majesty's Most Honourable Privy Council

The General Medical Council has made the General Medical Council (Licence to Practise and Revalidation) (Amendment) Regulations 2015 which are set out in the Schedule to this Order, in exercise of the powers conferred by sections 29A(2) to (4), 29B(1), (2), (3), 29D(1) and (2), 29J(3) and 44C(4) and (5) of the Medical Act 1983(a).

The General Medical Council has consulted with such bodies of persons representing medical practitioners, and such medical practitioners, as appeared to the General Medical Council requisite to be consulted in accordance with section 29J(5) of that Act.

By virtue of sections 29J(4) and 44C(10) of that Act the Regulations shall not have effect until approved by order of Privy Council.

**Citation and commencement**

1. This Order may be cited as the General Medical Council (Licence to Practise and Revalidation) (Amendment) Regulations Order of Council 2015 and comes into force on xxx 2015.

**Privy Council approval**

2. Their Lordships, having taken these Regulations into consideration, are pleased to and do approve them.

*Name*  
Clerk of the Privy Council

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(a) 1983 c.54. Part IIIA (sections 29A to 29J) was inserted by S.I. 2002/3135 and amended by S.I. 2006/1914, S.I. 2008/3131 S.I. 2010/234 and S.I. 2014/1101. Section 44C was inserted by S.I. 2006/1914 and substituted by S.I. 2014/1887.

## SCHEDULE

## Article 2

**The General Medical Council (Licence to Practise and Revalidation)  
(Amendment) Regulations 2015**

These Regulations are made by the General Medical Council in exercise of the powers conferred by sections 29A(2) to (4), 29B(1), (2) and (3), 29D(1) and (2), 29J(3) and 44C(4) and (5) of the Medical Act 1983.

The General Medical Council has consulted with such bodies of persons representing medical practitioners, and medical practitioners of any such description, as appeared to the General Medical Council requisite to be consulted in accordance with section 29J(5) of that Act.

**Citation and commencement**

1. These Regulations may be cited as the General Medical Council (Licence to Practise and Revalidation) (Amendment) Regulations 2015 and come into force on 1st August 2015.

**Amendments to the General Medical Council (Licence to Practise and Revalidation) Regulations 2012**

2.—(1) The General Medical Council (Licence to Practise and Revalidation) Regulations 2012 (a) are amended as follows.

(2) In regulation 1 (citation, commencement and interpretation)—

(a) in paragraph (2), after the definition of “the Act” insert—

““appropriate cover” in relation to practice as a medical practitioner, means cover against liabilities that may be incurred in practising as such which is appropriate, having regard to the nature and extent of the risks of practising as such;”;

(b) after paragraph (3), add—

“(4) For the purposes of these Regulations, an indemnity arrangement may comprise—

- (a) a policy of insurance;
- (b) an arrangement for the purposes of indemnifying a person;
- (c) a combination of the two.”.

(3) In regulation 3(b) (grant or refusal of a licence)—

(a) in paragraph (1), for “paragraph (1A)” substitute “paragraphs (1A) and (1C),”;

(b) after paragraph (1B), insert—

“(1C) The Registrar may refuse to grant a licence under paragraph (1) to a medical practitioner who has failed to provide—

- (a) confirmation that they have in force or will have in force in relation to them by the time they begin practice as a licensed practitioner, an indemnity arrangement which provides appropriate cover; or
  - (b) any other evidence or information requested by the Registrar under regulation 4A.”
- ; and

(c) after paragraph (3)(d), insert—

“(da) a statement by the practitioner that the practitioner has in force, or will have in force in relation to them by the time the practitioner begins to practise as a licensed

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(a) Scheduled to S.I. 2012/2685.

(b) Amended by S.I. 2014/1273.

practitioner in the UK, an indemnity arrangement which provides appropriate cover;”.

(4) In regulation 4 (withdrawal of a licence) after paragraph (3)(f) insert—

“(fa) failed, without reasonable excuse, to provide any evidence or information to the Registrar in accordance with regulation 4A;

(fb) failed, when practising as a licensed practitioner, to have in force in relation to them an indemnity arrangement providing appropriate cover;”.

(5) After regulation 4 (withdrawal of a licence), insert—

**“Request for information: indemnity arrangement**

**4A.** For the purposes of determining whether in relation to a licensed practitioner there is in force, or in the case of a person seeking a licence to practise, there will be in force, an indemnity arrangement which provides appropriate cover, the Registrar may by notice —

(a) require that licensed practitioner or that person, to provide, within 28 days of the date of the the notice such evidence or information as it appears reasonable to the Registrar to request;

(b) require evidence or information to be provided by that licensed practitioner on such dates and at such intervals as the Registrar may specify in the notice.”.

(6) In regulation 5 (restoration of a licence after withdrawal), after paragraph (2)(d) insert—

“(da) a statement by the practitioner that the practitioner has in force, or will have in force in relation to him by the time the practitioner begins to practise as a licensed practitioner in the UK, an indemnity arrangement which provides appropriate cover.”.

**Transitional provisions**

**3.** The amendments made by regulation 2(3) and 2(5) do not apply in relation to—

(a) any application for registration as a medical practitioner, or

(b) any application for a licence to practise,

received by the General Council before the day on which these Regulations come into force and which has not been determined before that date.

Given under the official seal of the General Medical Council this xxx day of xxx 2015.

*[Terence Stephenson]*  
Chair

*[Niall Dickson]*  
Chief Executive and Registrar

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order approves the Regulations set out in the Schedule to it which amend the General Medical Council (Licence to Practise and Revalidation) Regulations 2012 (scheduled to S.I. 2012/2685) (“the 2012 Regulations”).

Regulation 2(2) amends regulation 1 of the 2012 Regulations providing a definition of appropriate cover and specifying what an indemnity arrangement may comprise for the purposes of the 2012 Regulations.

Regulations 2(3)(a) and (b) amend regulation 3 of the 2012 Regulations enabling the Registrar to refuse to grant a licence if the practitioner has failed to: (a) provide confirmation that they have, or will have by the time they begin practice, an indemnity arrangement in force providing appropriate cover, or (b) provide any information requested by the Registrar in connection with an indemnity arrangement

Regulation 2(3)(c) also amends regulation 3 of the 2012 Regulations requiring an applicant for a licence to provide a statement that they have, or will have, an indemnity arrangement in force providing appropriate cover.

Regulation 2(4) amends regulation 4 of the 2012 Regulations enabling the Registrar to withdraw a practitioner’s licence where they have failed to: (a) provide any information requested by the Registrar, without reasonable excuse, or (b) have an indemnity arrangement in force providing appropriate cover when practising.

Regulation 2(5) inserts a new regulation 4A in the 2012 Regulations enabling the Registrar to request information from a practitioner to determine whether they have, or will have, an indemnity arrangement in force providing appropriate cover.

Regulation 2(6) amends regulation 5 of the 2012 Regulations to require an applicant seeking restoration of a licence to provide a statement that they have, or will have, an indemnity arrangement in force providing appropriate cover.

Regulation 3 makes transitional provisions in relation to the amendments made by regulation 2(3) and 2(5).