



Opticians Act 1989

1989 CHAPTER 44

[^{F1}PART 2A

FITNESS TO PRACTISE

[^{F1}13B. The Council's power to require disclosure of information

- (1) For the purpose of assisting the Council or any of their Committees in carrying out any of their functions under this Act relating to—
 - (a) a registered optometrist's or a registered dispensing optician's fitness to practise;
 - (b) a business registrant's fitness to carry on business as an optometrist or a dispensing optician or both; or
 - (c) a student registrant's fitness to undertake training,

the Council may require a registrant or any other person to supply any information or produce any document which appears to the Council relevant to the discharge of those functions.

- (2) As soon as reasonably practicable after the date on which an allegation has been made to the Council relating to a registered optometrist's or registered dispensing optician's fitness to practise or a student registrant's fitness to undertake training, the Council shall require, from the registrant to whom the allegation relates, particulars of any person who employs him.
- (3) Nothing in this section shall require or permit any disclosure of information which is prohibited by or under any other enactment [^{F2}or the [^{F3}UK GDPR]]; but if information is held in a form in which the prohibition operates because the information is capable of identifying an individual, the Council may, in exercising their functions under subsection (1) above, require that the information be put into a form which is not capable of identifying that individual.

- [^{F4}(4) In determining for the purposes of subsection (3) whether a disclosure is prohibited, it is to be assumed for the purposes of paragraph 5(2) of Schedule 2 to the Data Protection Act 2018 and paragraph 3(2) of Schedule 11 to that Act (exemptions from

Changes to legislation: Opticians Act 1989, Section 13B is up to date with all changes known to be in force on or before 19 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

certain provisions of the data protection legislation: disclosures required by law) that the disclosure is required by this section.]

- (5) Subsection (1) above does not apply in relation to the supplying of information or the production of a document which a person could not be compelled to supply or produce in civil proceedings before—
- (a) the Court of Session, if the person’s address in the appropriate register is in Scotland, or if he is not registered, if he is resident in Scotland;
 - (b) the High Court of Justice in Northern Ireland, if the person’s address in the appropriate register is in Northern Ireland, or if he is not registered, if he is resident in Northern Ireland; or
 - (c) the High Court of Justice in England and Wales, if the person’s address in the appropriate register is in England or Wales, or if he is not registered, he is resident in England or Wales.
- (6) If a person fails to supply any information or produce any document within fourteen days of his being required to do so under subsection (1) above, the Council may seek an order of the relevant court requiring the information to be supplied or the document to be produced.
- (7) In subsection (6) above, “relevant court” means the county court or, in Scotland, the sheriff.
- (8) In subsection (7) above, “the sheriff” means the sheriff in whose sheriffdom is situated the address of the person who fails to supply the information or produce the document.
- (9) For the purposes of subsection (3) above, “enactment” includes—
- (a) a provision of, or an instrument made under, an Act of the Scottish Parliament;
 - (b) a provision of, or an instrument made under, Northern Ireland legislation; and
 - (c) a provision of subordinate legislation (within the meaning of the Interpretation Act 1978).
- [^{F5}(10) In this section, “the UK GDPR” has the same meaning as in Parts 5 to 7 of the Data Protection Act 2018 (see section 3(10) and (14) of that Act).]

Textual Amendments

- F1** Pt. 2A inserted (coming into force in accordance with art. 1(3)-(6) of the amending S.I.) by [The Opticians Act 1989 \(Amendment\) Order 2005 \(S.I. 2005/848\)](#), **art. 16** (with **Sch. 2**)
- F2** Words in s. 13B(3) inserted (25.5.2018) by [Data Protection Act 2018 \(c. 12\)](#), s. 212(1), **Sch. 19 para. 35(2)** (with **ss. 117, 209, 210**); S.I. 2018/625, reg. 2(1)(g)
- F3** Words in s. 13B(3) substituted (31.12.2020) by [The Data Protection, Privacy and Electronic Communications \(Amendments etc\) \(EU Exit\) Regulations 2019 \(S.I. 2019/419\)](#), reg. 1(2), **Sch. 3 para. 18(2)** (with **Sch. 3 para. 112**); 2020 c. 1, Sch. 5 para. 1(1)
- F4** S. 13B(4) substituted (25.5.2018) by [Data Protection Act 2018 \(c. 12\)](#), s. 212(1), **Sch. 19 para. 35(3)** (with **ss. 117, 209, 210**); S.I. 2018/625, reg. 2(1)(g)
- F5** S. 13B(10) substituted (31.12.2020) by [The Data Protection, Privacy and Electronic Communications \(Amendments etc\) \(EU Exit\) Regulations 2019 \(S.I. 2019/419\)](#), reg. 1(2), **Sch. 3 para. 18(3)** (with **Sch. 3 para. 112**); 2020 c. 1, Sch. 5 para. 1(1)

Changes to legislation:

Opticians Act 1989, Section 13B is up to date with all changes known to be in force on or before 19 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 13D(2)(h)(i) inserted by [S.I. 2008/1774 Sch. 2 para. 2](#) (This amendment not applied to legislation.gov.uk. It was due to come into force on the coming into force of s. 44(1) of the Safeguarding Vulnerable Groups Act 2006 (c. 47), see art. 1(4). S. 44(1) was repealed without ever being in force on 10.9.2012 by 2012 c. 9, s. 75(6), Sch. 10 Pt. 5; S.I. 2012/2234, art. 2)
- s. 13AA inserted by [2008 c. 14 Sch. 7 para. 30](#)
- s. 23I inserted by [2008 c. 14 Sch. 7 para. 46](#)
- s. 23AA inserted by [2008 c. 14 Sch. 7 para. 39](#)
- s. 23CA inserted by [2008 c. 14 Sch. 7 para. 42](#)