



# Health and Social Care Act 2008

## 2008 CHAPTER 14

### PART 2

#### REGULATION OF HEALTH PROFESSIONS AND HEALTH AND SOCIAL CARE WORKFORCE

##### *The Office of the Health Professions Adjudicator*

VALID FROM 28/09/2009

#### **98 The Office of the Health Professions Adjudicator**

- (1) There is to be a body corporate known as the Office of the Health Professions Adjudicator (referred to in this Part as “the OHPA”).
- (2) The OHPA is to have functions in relation to the professions regulated by—
  - (a) the Medical Act 1983 (c. 54), and
  - (b) the Opticians Act 1989 (c. 44).
- (3) Schedule 6 (which makes further provision about the OHPA) has effect.

PROSPECTIVE

#### **99. <sup>F1</sup>Functions under Medical Act 1983 and Opticians Act 1989**

.....

#### **Textual Amendments**

- F1** Ss. 98-110 omitted (1.7.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), ss. [231\(2\)](#), [306\(4\)](#) (with [Sch. 15 para. 76](#)); S.I. 2012/1319, art. 2(3)

*Status: Point in time view as at 21/07/2008. This version of this cross heading contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Health and Social Care Act 2008, Cross Heading: The Office of the Health Professions Adjudicator. (See end of Document for details)*

PROSPECTIVE

**100. <sup>F1</sup> Fitness to practise panels**

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**Textual Amendments**

**F1** Ss. 98-110 omitted (1.7.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 231(2)**, 306(4) (with [Sch. 15 para. 76](#)); S.I. 2012/1319, art. 2(3)

PROSPECTIVE

**101. <sup>F1</sup> Lists of persons eligible for membership of fitness to practise panels**

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**Textual Amendments**

**F1** Ss. 98-110 omitted (1.7.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 231(2)**, 306(4) (with [Sch. 15 para. 76](#)); S.I. 2012/1319, art. 2(3)

PROSPECTIVE

**102. <sup>F1</sup> Further provisions about listed persons**

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**Textual Amendments**

**F1** Ss. 98-110 omitted (1.7.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 231(2)**, 306(4) (with [Sch. 15 para. 76](#)); S.I. 2012/1319, art. 2(3)

PROSPECTIVE

**103. <sup>F1</sup> Legal assessors**

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**Textual Amendments**

**F1** Ss. 98-110 omitted (1.7.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 231(2)**, 306(4) (with [Sch. 15 para. 76](#)); S.I. 2012/1319, art. 2(3)

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PROSPECTIVE

**104. <sup>F1</sup> Clinical and other specialist advisers**

.....

**Textual Amendments**

**F1** Ss. 98-110 omitted (1.7.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 231(2)**, 306(4) (with [Sch. 15 para. 76](#)); S.I. 2012/1319, art. 2(3)

PROSPECTIVE

**105. <sup>F1</sup> Procedural rules**

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**Textual Amendments**

**F1** Ss. 98-110 omitted (1.7.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 231(2)**, 306(4) (with [Sch. 15 para. 76](#)); S.I. 2012/1319, art. 2(3)

PROSPECTIVE

**106. <sup>F1</sup> Administration of oaths and issuing of witness summonses etc.**

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**Textual Amendments**

**F1** Ss. 98-110 omitted (1.7.2012) by virtue of [Health and Social Care Act 2012 \(c. 7\)](#), **ss. 231(2)**, 306(4) (with [Sch. 15 para. 76](#)); S.I. 2012/1319, art. 2(3)

VALID FROM 25/01/2010

**107 Duty to inform the public**

- (1) For the purpose of ensuring that members of the public are informed about the OHPA and the exercise by it of its functions, the OHPA must publish or provide in such manner as it thinks fit information about the OHPA and the exercise of its functions.
- (2) Without prejudice to the generality of subsection (1), the OHPA must publish in such manner as it thinks fit, and within such time as may be specified in rules, decisions of its fitness to practise panels.

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- (3) But the OHPA may withhold from publication—
- (a) information concerning the physical or mental health of a person which the OHPA considers to be confidential, and
  - (b) other information which is of a description specified in rules.
- (4) Nothing in subsection (1) or (2) authorises or requires the publication or provision of information if the publication or provision of that information—
- (a) is prohibited by any enactment, or
  - (b) would constitute or be punishable as a contempt of court.
- (5) In this section “rules” means rules made by the OHPA.

VALID FROM 25/01/2010

### **108 Duty to consult**

The OHPA must from time to time seek the views of—

- (a) members of the public,
  - (b) bodies which appear to the OHPA to represent the interests of patients,
  - (c) the General Medical Council and the General Optical Council, and
  - (d) any other bodies which appear to the OHPA to represent the professions regulated by the Medical Act 1983 (c. 54) or the Opticians Act 1989 (c. 44),
- on matters relevant to the exercise by it of its functions.

### **109 OHPA rules: supplementary**

- (1) This section applies to the power of the OHPA to make rules under any of sections 100, 101, 103, 104, 105 and 107.
- (2) The power may be exercised—
  - (a) so as to make different provision for different cases or different classes of case or different provision in respect of the same case or class of case for different purposes of this Act,
  - (b) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or
  - (c) so as to make any supplementary, incidental, consequential, transitional, transitory or saving provision which the OHPA considers necessary or expedient.
- (3) Before making rules the OHPA must consult—
  - (a) the Council for Healthcare Regulatory Excellence,
  - (b) if the rules affect the profession regulated by the Medical Act 1983, the General Medical Council and any other bodies which appear to the OHPA to represent that profession,
  - (c) if the rules affect the professions regulated by the Opticians Act 1989, the General Optical Council and any other bodies which appear to the OHPA to represent those professions,
  - (d) bodies which appear to the OHPA to represent the interests of patients, and

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- (e) such other persons as the OHPA considers appropriate.
- (4) Rules do not come into force until they have been approved by order of the Privy Council.
- (5) The Privy Council may approve rules—
  - (a) as submitted to them, or
  - (b) subject to such modifications as appear to them to be necessary.
- (6) Where the Privy Council propose to approve rules subject to modifications, they must—
  - (a) notify the OHPA of the modifications they propose to make, and
  - (b) consider any observations which the OHPA may make on the modifications.

#### **Commencement Information**

**II** S. 109 partly in force; S. 109 in force for specified purposes at Royal Assent, see s. 170

### **110 Fees payable by General Medical Council and General Optical Council**

- (1) The Secretary of State must with the approval of the Treasury make regulations requiring each of the regulatory bodies to pay to the OHPA periodic fees in respect of the discharge by the OHPA of its functions.
- (2) The regulations must provide for the amount of the fees to be determined by the OHPA in accordance with the regulations.
- (3) The regulations must require the OHPA to exercise its powers under the regulations with a view to ensuring that its chargeable costs are met by fees payable under the regulations and, accordingly, that the fees payable by each regulatory body cover—
  - (a) so much of the OHPA's chargeable costs as are treated by the regulations as being attributable to the OHPA's functions under the relevant regulatory Act, and
  - (b) an apportionment between the regulatory bodies of so much of the OHPA's chargeable costs as are not treated by the regulations as being attributable to the OHPA's functions under that Act or the other relevant regulatory Act.
- (4) For the purposes of subsection (3), the OHPA's "chargeable costs" are the costs incurred by the OHPA under or for the purposes of this Act or any other enactment, other than costs—
  - (a) incurred before such day as may be specified in the regulations, or
  - (b) incurred for a purpose specified in the regulations.
- (5) The regulations must provide that no fee is to be payable unless the OHPA has—
  - (a) notified the regulatory bodies of its proposed determination as to the amount of the fees payable by them,
  - (b) considered any representations made by the regulatory bodies in relation to the proposed determination, and
  - (c) notified each of the regulatory bodies of the OHPA's determination of the amount payable by that body (which may be more or less than the amount proposed).

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- (6) The regulations may require the OHPA to obtain the approval of the Treasury in relation to the amount of any fee.
- (7) The regulations may—
- (a) make provision as to the times at which fees are to be paid;
  - (b) enable a determination to be varied, replaced or revoked;
  - (c) provide that if the whole or any part of a fee payable under the regulations is not paid by the time when it is required to be paid under the regulations, the unpaid balance from that time carries interest at the rate determined by or in accordance with the regulations;
  - (d) make provision as to the recovery of fees.
- (8) Before making regulations under this section, the Secretary of State must consult the regulatory bodies and such other persons as the Secretary of State considers appropriate.
- (9) In this section—
- “regulatory body” means the General Medical Council or the General Optical Council;
  - “relevant regulatory Act” means—
    - (a) in relation to the General Medical Council, the Medical Act 1983 (c. 54), and
    - (b) in relation to the General Optical Council, the Opticians Act 1989 (c. 44).

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**Commencement Information**

**12** S. 110 partly in force; S. 110 in force for specified purposes at Royal Assent, see s. 170

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