

SCHEDULE 2

Article 2(2)

Amendments to the Opticians Act 1989

Amendment of section 1

1. In section 1 (constitution and functions of the Council), for subsection (4) substitute the following subsection—

“(4) The Council shall be constituted as provided for by order of the Privy Council, subject to Schedule 1 (which relates to the constitution etc. of the Council), and the provisions of that Schedule shall have effect.”

Amendment of section 13D

2. In section 13D(1) (allegations), in subsection (2), omit “or” at the end of paragraph (f) and after paragraph (g) insert—

- “(h) the Independent Barring Board including the person in a barred list (within the meaning of the Safeguarding Vulnerable Groups Act 2006 or the Safeguarding Vulnerable Groups (Northern Ireland) Order 2007); or
- (i) the Scottish Ministers including the person in the children’s list or the adults’ list (within the meaning of the Protection of Vulnerable Groups (Scotland) Act 2007).”

New section 32A

3. After section 32, insert the following section—

“Annual reports, statistical reports and strategic plans

32A.—(1) The Council shall publish, by such date in each year as the Privy Council shall specify—

- (a) a report on the exercise of their functions which includes a description of the arrangements that the Council have put in place to ensure that they adhere to good practice in relation to equality and diversity (and for these purposes “equality” and “diversity” have the meanings given in section 8(2) of the Equality Act 2006);
- (b) a statistical report which indicates the efficiency and effectiveness of, and which includes a description of, the arrangements which the Council have put in place to protect members of the public from registrants whose fitness to practise, to undertake training or to carry on a business is impaired, together with the Council’s observations on the report; and
- (c) a strategic plan for the Council in respect of such number of years as the Council shall determine.

(2) The Council shall submit copies of the reports and the plan published under subsection (1) to the Privy Council and the Privy Council shall lay copies of the reports and the plan before each House of Parliament.”

Amendment of section 34

4. In section 34(2) (subordinate legislation procedure)—

(1) Section 13D was inserted by [S.I. 2005/848](#).
(2) Section 34 was amended by [S.I. 2005/848](#).

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- (a) in subsection (1), omit “and a scheme submitted by them under paragraph 3 of Schedule 1 to this Act”; and
- (b) in subsection (7)—
 - (i) in paragraph (a), omit “other than an order such as is mentioned in subsection (9) (a) below”,
 - (ii) omit paragraph (b) (together with the “and” following it), and
 - (iii) for paragraph (c) substitute the following paragraph—
 - “(c) an order under section 1(4) or 27.”.

Amendment of section 36

5. In section 36(3) (interpretation), in subsection (1), for the definition of “medical authority” substitute the following definition—

““medical authority” means a body or combination of bodies included in the list maintained by the General Medical Council under section 4(1) of the Medical Act 1983;”.

Amendment of Schedule 1

6.—(1) Schedule 1(4) (constitution etc. of Council) is amended in accordance with the provisions of this paragraph.

(2) For paragraphs 1 to 9 substitute the following paragraphs—

“Membership: general

1A.—(1) The Council shall consist of—

- (a) registrant members, that is members who are registered optometrists or registered dispensing opticians; and
- (b) lay members, that is members who—
 - (i) are not and never have been registered in a register, or a director of a body corporate registered in a register, maintained by the Council, and
 - (ii) do not hold qualifications which would entitle them to apply for registration in one of the registers maintained under section 7 or 8B.

(2) The members of the Council shall be appointed by the Privy Council.

(3) The Privy Council shall ensure that, at any time, at least one member of the Council lives or works wholly or mainly in each of England, Scotland, Wales and Northern Ireland.

(4) Before the Privy Council gives a direction to the Appointments Commission under section 60(1) of the Health Act 2006 to exercise any function of the Privy Council relating to the appointment of members of the Council, the Privy Council shall consult the Council.

Matters for the order of the Privy Council under section 1(4)

1B.—(1) An order under section 1(4) shall include provision with regard to—

- (a) the numbers of registrant members and lay members of the Council;
- (b) the terms of office for which members of the Council are appointed, and the order may provide that these are to be determined by the Privy Council, on appointment;

(3) Section 36 was amended by [S.I. 2005/848](#).

(4) Schedule 1 has been amended by the Health and Social Care (Community Health and Standards) Act 2003, Schedule 12, paragraph 4, and by [S.I. 1998/3117](#) and [2005/848](#).

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- (c) the grounds on which persons are to be disqualified from appointment as registrant or lay members of the Council;
 - (d) the appointment of a chair of the Council and the chair's term of office, and the order may provide that the term is to be determined by whoever makes the appointment as chair, on appointment;
 - (e) deputising arrangements in respect of the chair;
 - (f) the quorum of the Council; and
 - (g) the circumstances in which members cease to hold office or may be removed or suspended from office.
- (2) But an order under section 1(4) must not include any provision which would have the effect that a majority of the members of the Council would be lay members.
- (3) An order under section 1(4) may include provision with regard to—
- (a) the maximum period for which a member of the Council may hold office as a member during a specified period;
 - (b) the maximum period for which a member of the Council may serve as chair of the Council during a specified period;
 - (c) the education and training of members of the Council, and the order may provide for the Council to include the requirements with regard to education and training of their members in standing orders, and for those standing orders to provide for—
 - (i) that education and training to be the responsibility of another body, and
 - (ii) those requirements to be set and varied by that body from time to time;
 - (d) the attendance of members of the Council at meetings of the Council;
 - (e) the effect (if any) of any vacancy in the membership of the Council or any defect in the appointment of a member; and
 - (f) enabling the Privy Council to appoint as the chair of the Council, for a specified period, the person who held office as chairman of the Council on the day before the first order under section 1(4) comes into force.
- (4) An order under section 1(4) may make different provision for different cases or different classes of case and may contain such incidental, consequential, transitional, transitory, saving or supplementary provisions as appear to the Privy Council to be necessary or expedient.

Registration of members' private interests

1C.—(1) The Council must establish and maintain a system for the declaration and registration of private interests of their members.

(2) The Council must publish in such manner as they see fit entries recorded in the register of members' private interests.”

(3) In paragraph 11 (which relates to powers of the Council)—

- (a) in sub-paragraph (3), omit “the Council and” and “the Council or”; and
- (b) after sub-paragraph (3), insert the following sub-paragraph—

“(4) Standing orders of the Council may make provision with regard to the provisional suspension of a member of the Council from office, pending the taking of a decision about the suspension or removal from office of the member in accordance with the provisions of an order under section 1(4).”

(4) After paragraph 11, insert the following paragraph—

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“**11A.**—(1) In exercising their functions, the Council shall—

(a) have proper regard for—

(i) the interests of persons using or needing the services of registered optometrists, registered dispensing opticians or business registrants in the United Kingdom, and

(ii) any differing interests of different categories of registrants;

(b) co-operate, in so far as is appropriate and reasonably practicable, with public bodies or other persons concerned with—

(i) the employment (whether or not under a contract of service) of registered optometrists or registered dispensing opticians,

(ii) the education or training of individual registrants or other health care professionals,

(iii) the regulation of, or the co-ordination of the regulation of, other health or social care professionals,

(iv) the regulation of health services, and

(v) the provision, supervision or management of health services.

(2) In carrying out its duty to co-operate under sub-paragraph (1)(b), the Council shall have regard to any differing considerations relating to practising as a registered optometrist or a registered dispensing optician, or carrying on a business as a business registrant, which apply in England, Scotland, Wales or Northern Ireland.

(3) In sub-paragraph (1), “other health care professionals” means persons regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002⁽⁵⁾, other than the Council.”

(5) In paragraph 12—

(a) before “The Council may” insert “Subject to any provision made by or under this Act,”; and

(b) omit “(including quorum)”.

(6) After paragraph 12A⁽⁶⁾, insert the following paragraph—

“**12B.** Rules under sections 2 to 5D may make provision for a body (including a committee of the Council which is not one of the committees to which any of those sections relate) to assist the Council in connection with the exercise of any function relating to the appointment of members or particular members of any of the committees or the panel to which those sections relate, including any function relating to tenure of office or suspension or removal from office.”

(7) Omit paragraph 13 (which relates to the powers of the Privy Council to alter the membership of the Council).

⁽⁵⁾ 2002 c.17.

⁽⁶⁾ Inserted by S.I. 2005/848.