

HEALTH AND SOCIAL CARE ACT 2008

EXPLANATORY NOTES

TERRITORIAL EXTENT

Interpretation

Part 2 – Regulation of Health Professions and Health and Social Care Workforce

The Office of the Health Professions Adjudicator

Schedule 6: The Office of the Health Professions Adjudicator

298. *Schedule 6* makes detailed provision for the constitution and membership of the OHPA.
299. *Paragraphs 2 and 3* set out the status of the body and that it is to have the powers necessary to enable it to carry out its functions.
300. *Paragraphs 4 to 10* make provision about the membership of the body. The members are to be a legally qualified chair appointed by the Privy Council, at least one but no more than three non-executive members, also appointed by the Privy Council, and at least one but no more than three executive members, subject to the proviso that there are not more executive than non-executive members. Initially the executive members will be appointed by the Privy Council. Thereafter they will be appointed by the OHPA. The Privy Council must make regulations about the precise number of executive and non-executive members. *Paragraph 21* of Schedule 10 contains provisions to allow the Privy Council to delegate their appointment functions in relation to the OHPA to the Appointments Commission. By virtue of *paragraph 22* of Schedule 10, the Appointments Commission will be able to assist the OHPA with its appointment of executive members. The chair and other members may be removed from office by the Privy Council on the grounds of incapacity or misbehaviour, but will otherwise hold and vacate office in accordance with the terms of their appointment.
301. *Paragraphs 11 and 12* deal with the procedure to be followed by the OHPA and provide that the OHPA may regulate its own procedure. Proceedings of the OHPA are not affected by circumstances such as vacancies in its membership or defects in the appointment of members.
302. *Paragraph 13* requires the OHPA to maintain a system for the declaration and registration of members' private interests and to publish entries recorded in the register.
303. Under *paragraph 14*, the Secretary of State is to determine the remuneration and allowances payable to the chair and other members. The Secretary of State may also require the OHPA to make provision for pensions and, in certain circumstances, to pay compensation to a person who has ceased to hold office as chair of the OHPA. Under *paragraphs 15 and 16*, amendments to the Superannuation Act 1972 will enable the OHPA to be included in the civil service pension scheme. Under *paragraph 17*, the OHPA may appoint such employees as it considers appropriate, on such terms as it determines (including as to pay, pensions etc.)

*These notes refer to the Health and Social Care Act 2008
(c.14) which received Royal Assent on 21 July 2008*

304. *Paragraph 18* provides that the Secretary of State and DHSSPSNI may make payments to the OHPA. The Secretary of State and DHSSPSNI can also make loans to the OHPA. Paragraph 18(4) requires Treasury consent to the amount and terms of loans made to the OHPA by the Secretary of State. Paragraph 18(6) requires the consent of the Department of Finance and Personnel in Northern Ireland to the amount and terms of loans made to the OHPA by DHSSPSNI. The OHPA will have no other powers to borrow money. Paragraph 18(8) and (9) provide that the Secretary of State and DHSSPSNI may give directions to the OHPA on the application of payments or loans made to it.
305. Under *paragraph 19*, the OHPA must keep accounts, and prepare annual accounts, in such form as determined by the Secretary of State. Copies of annual accounts must be sent to the Comptroller and Auditor General, who will lay copies of the accounts and of his report on them before Parliament. A copy of the accounts must also be sent to the Secretary of State and DHSSPSNI. DHSSPSNI will lay a copy of the accounts before the Northern Ireland Assembly. Under *paragraph 20*, the OHPA must also prepare an annual report for each financial year on how it has carried out its functions. The Privy Council may give directions as to the content of the report. The Secretary of State must lay it before Parliament. DHSSPSNI must lay it before the Northern Ireland Assembly.
306. *Paragraph 21* concerns the application of the seal of the OHPA. *Paragraph 22* concerns the receipt in evidence of documents purporting to be executed under the seal of the OHPA or signed on its behalf. *Paragraph 23* provides for public access to meetings of the OHPA in Northern Ireland. Equivalent provision in relation to meetings in England, Wales and Scotland is made by the amendment to the Public Bodies (Admission to Meetings) Act 1960 in Schedule 10.