

Status: Point in time view as at 25/01/2010. This version of this schedule contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Health and Social Care Act 2008, SCHEDULE 6. (See end of Document for details)

SCHEDULES

SCHEDULE 6

Section 98

THE OFFICE OF THE HEALTH PROFESSIONS ADJUDICATOR

Interpretation

- 1 In this Schedule “the relevant Northern Ireland department” means the Department of Health, Social Services and Public Safety in Northern Ireland.

Commencement Information

I1 Sch. 6 para. 1 in force at 25.1.2010 by S.I. 2010/23, art. 2(g)(i)

Status

- 2 (1) The OHPA is not to be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.
- (2) The OHPA's property is not to be regarded as property of, or property held on behalf of, the Crown.

Commencement Information

I2 Sch. 6 para. 2 in force at 25.1.2010 by S.I. 2010/23, art. 2(g)(i)

General powers

- 3 (1) The OHPA may do anything which appears to it to be necessary or expedient for the purposes of, or in connection with, the exercise of its functions.
- (2) This includes, in particular, the power to—
- (a) acquire and dispose of land and other property, and
 - (b) enter into contracts.

Commencement Information

I3 Sch. 6 para. 3 in force at 25.1.2010 by S.I. 2010/23, art. 2(g)(i)

Membership

- 4 The OHPA is to consist of the following members—
- (a) a chair appointed by the Privy Council,
 - (b) non-executive members appointed by the Privy Council, and

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- (c) executive members appointed in accordance with paragraph 8.

Commencement Information

I4 Sch. 6 para. 4 in force at 28.9.2009 by S.I. 2009/2567, art. 2(c)

- 5 No person may be appointed as a member unless the person satisfies such requirements as may be prescribed in regulations made by the Privy Council.

Commencement Information

I5 Sch. 6 para. 5 partly in force; Sch. 6 para. 5 in force for specified purposes at Royal Assent, see s. 170

I6 Sch. 6 para. 5 in force at 28.9.2009 in so far as not already in force by S.I. 2009/2567, art. 2(c)

- 6 A person may be appointed as the chair only if the person (as well as satisfying any requirements prescribed under paragraph 5)—
- (a) has a 10 year general qualification within the meaning of section 71 of the Courts and Legal Services Act 1990 (c. 41),
 - (b) is an advocate or solicitor in Scotland of at least 10 years' standing, or
 - (c) is a member of the Bar of Northern Ireland, or a solicitor of the Court of Judicature of Northern Ireland, of at least 10 years' standing.

Commencement Information

I7 Sch. 6 para. 6 in force at 28.9.2009 by S.I. 2009/2567, art. 2(c)

- 7 (1) The Privy Council must by regulations make provision about the number of non-executive and executive members.
- (2) The regulations must provide for there to be—
- (a) at least one but no more than three non-executive members, and
 - (b) at least one but no more than three executive members.
- (3) The regulations may not provide for the number of executive members to be greater than the number of non-executive members.

Commencement Information

I8 Sch. 6 para. 7 partly in force; Sch. 6 para. 7 in force for specified purposes at Royal Assent, see s. 170

I9 Sch. 6 para. 7 in force at 28.9.2009 in so far as not already in force by S.I. 2009/2567, art. 2(c)

- 8 (1) The first executive members are to be appointed by the Privy Council.
- (2) Subsequent appointments of executive members are to be made by the OHPA.
- (3) The executive members must be employees of the OHPA.
- (4) Sub-paragraph (3) is to be taken to be complied with in relation to the first executive members appointed under sub-paragraph (1) if they are employed by the OHPA as soon as practicable after being appointed.

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Commencement Information

I10 Sch. 6 para. 8 in force at 28.9.2009 by S.I. 2009/2567, art. 2(c)

- 9 Each of the members mentioned in paragraph 4(a) to (c)—
- (a) holds and vacates office in accordance with the terms of the member's appointment, and
 - (b) may be removed from office by the Privy Council on the grounds of incapacity or misbehaviour.

Commencement Information

I11 Sch. 6 para. 9 in force at 28.9.2009 by S.I. 2009/2567, art. 2(c)

- 10 (1) Subject to sub-paragraph (2), the terms of a member's appointment are to be determined by the person making the appointment.
- (2) The terms of appointment of an executive member appointed by the OHPA are to be determined by the Privy Council in so far as the terms relate to tenure of office or suspension from office.

Commencement Information

I12 Sch. 6 para. 10 in force at 28.9.2009 by S.I. 2009/2567, art. 2(c)

Procedure

- 11 The OHPA may regulate its own procedure.

Commencement Information

I13 Sch. 6 para. 11 in force at 25.1.2010 by S.I. 2010/23, art. 2(g)(ii)

- 12 The validity of proceedings of the OHPA is not affected—
- (a) by any vacancy in its membership,
 - (b) by any defect in the appointment of a member, or
 - (c) by any person—
 - (i) acting as a member even though ineligible for appointment when purportedly appointed, or
 - (ii) acting as a member after having ceased to be a member.

Commencement Information

I14 Sch. 6 para. 12 in force at 25.1.2010 by S.I. 2010/23, art. 2(g)(ii)

Members' interests

- 13 (1) The OHPA must establish and maintain a system for the declaration and registration of private interests of its members.

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- (2) The OHPA must publish entries recorded in the register of members' interests.

Commencement Information

I15 Sch. 6 para. 13 in force at 25.1.2010 by S.I. 2010/23, art. 2(g)(ii)

Remuneration and allowances

- 14 (1) The OHPA must pay to its chair, or to any other member, such remuneration and allowances as the Secretary of State may determine.
- (2) If the Secretary of State so determines, the OHPA must pay or make provision for the payment of such pension, allowances or gratuities as the Secretary of State may determine to or in respect of a person who is or has been the chair or any other member of the OHPA.
- (3) If the Secretary of State determines that there are special circumstances that make it right for a person ceasing to hold office as chair of the OHPA to receive compensation, the OHPA must—
- (a) pay to that person, or
 - (b) make provision for the payment to that person of, such compensation as the Secretary of State may determine.

Commencement Information

I16 Sch. 6 para. 14 in force at 25.1.2010 by S.I. 2010/23, art. 2(g)(ii)

PROSPECTIVE

F1 ...

Textual Amendments

F1 Sch. 6 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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Employees

- 17 (1) The OHPA may appoint such employees (in addition to the executive members) as it considers appropriate on such terms and conditions as it may determine.
- (2) Without prejudice to its other powers, the OHPA may pay, or make provision for the payment of—
- (a) pensions, allowances and gratuities, or

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- (b) compensation for loss of employment or reduction of remuneration, to or in respect of its employees.

Commencement Information

I17 Sch. 6 para. 17 in force at 25.1.2010 by S.I. 2010/23, art. 2(g)(iii)

Payments and loans to the OHPA

- 18 (1) The Secretary of State may make payments to the OHPA of such amounts, at such times and on such conditions (if any) as the Secretary of State considers appropriate.
- (2) The relevant Northern Ireland department may make payments to the OHPA of such amounts, at such times and on such conditions (if any) as it considers appropriate.
- (3) The Secretary of State may make loans to the OHPA on such terms (including terms as to repayment and interest) as the Secretary of State may determine.
- (4) The approval of the Treasury is required as to the amount and terms of any loan under sub-paragraph (3).
- (5) The relevant Northern Ireland department may make loans to the OHPA on such terms (including terms as to repayment and interest) as it may determine.
- (6) The approval of the Department of Finance and Personnel in Northern Ireland is required as to the amount and terms of any loan under sub-paragraph (5).
- (7) Except as provided by sub-paragraphs (3) and (5), the OHPA has no power to borrow money.
- (8) The Secretary of State may give directions to the OHPA as to the application of any sums received by it under sub-paragraph (1) or (3).
- (9) The relevant Northern Ireland department may give directions to the OHPA as to the application of any sums received by it under sub-paragraph (2) or (5).
- (10) The OHPA must comply with any directions under sub-paragraph (8) or (9).

Commencement Information

I18 Sch. 6 para. 18 in force at 25.1.2010 by S.I. 2010/23, art. 2(g)(iii)

Accounts

- 19 (1) The OHPA must keep accounts in such form as the Secretary of State may determine.
- (2) The OHPA must prepare annual accounts in respect of each financial year in such form as the Secretary of State may determine.
- (3) The OHPA must send copies of the annual accounts to—
- (a) the Secretary of State, and
- (b) the Comptroller and Auditor General,
- within such period after the end of the financial year to which the accounts relate as the Secretary of State may determine.

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- (4) Within that period the OHPA must also send copies of the annual accounts to the relevant Northern Ireland department.
- (5) The Comptroller and Auditor General must examine, certify and report on the annual accounts and must lay copies of the accounts, and of the report on them, before Parliament.
- (6) A copy of the accounts must be laid before the Northern Ireland Assembly by the relevant Northern Ireland department.
- (7) In this paragraph and paragraph 20, “financial year” means—
 - (a) the period beginning with the day on which the OHPA is established and ending with the next 31 March following that day, and
 - (b) each successive period of 12 months ending with 31 March.

Commencement Information

I19 Sch. 6 para. 19 in force at 25.1.2010 by S.I. 2010/23, art. 2(g)(iii)

Reports

- 20 (1) The OHPA must prepare a report on the exercise of its functions during each financial year.
- (2) As soon as possible after the end of the financial year the OHPA must send copies of the report to—
 - (a) the Secretary of State, and
 - (b) the relevant Northern Ireland department.
- (3) A copy of the report must be laid—
 - (a) before Parliament, by the Secretary of State, and
 - (b) before the Northern Ireland Assembly, by the relevant Northern Ireland department.
- (4) The Privy Council may give directions to the OHPA as to the matters to be dealt with in the report.

Commencement Information

I20 Sch. 6 para. 20 in force at 25.1.2010 by S.I. 2010/23, art. 2(g)(iii)

Seal and evidence

- 21 The application of the seal of the OHPA must be authenticated by the signature—
 - (a) of any member of the OHPA, or
 - (b) of any other person who has been authorised by the OHPA (whether generally or specifically) for that purpose.

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I21 Sch. 6 para. 21 in force at 25.1.2010 by S.I. 2010/23, art. 2(g)(iii)

- 22 A document—
- (a) purporting to be duly executed under the seal of the OHPA, or
 - (b) purporting to be signed on behalf of the OHPA,
- is to be received in evidence and, unless the contrary is proved, taken to be so executed or signed.

Commencement Information

I22 Sch. 6 para. 22 in force at 25.1.2010 by S.I. 2010/23, art. 2(g)(iii)

Meetings of the OHPA in Northern Ireland

- 23 (1) Sections 23 to 27 of the Local Government Act (Northern Ireland) 1972 (c. 9) (which provide for public access to meetings of a district council, the publication of information concerning such meetings etc.) apply in relation to meetings of the OHPA in Northern Ireland as they apply in relation to meetings of a district council but subject to the following modifications.
- (2) The modifications are that—
- (a) any reference to a district council is to be read as a reference to the OHPA, and
 - (b) any reference to councillors or members of the council is to be read as a reference to members of the OHPA.

Commencement Information

I23 Sch. 6 para. 23 in force at 25.1.2010 by S.I. 2010/23, art. 2(g)(iii)

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