
EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Opticians Act 1989 (“the Act”).

The Order is made under sections 60 and 62(4) of, and Schedule 3 to, the Health Act 1999. Under paragraph 9(1) of that Schedule, the Secretary of State published a draft of the Order and invited representations to be made on it. The report about the consultation is posted on the Department of Health’s website (www.dh.gov.uk/publications).

Article 3 provides that the functions of the General Optical Council (“the Council”) are to include the promotion of high standards of professional education, conduct and performance amongst optometrists, dispensing opticians and bodies corporate.

Article 4 amends provisions relating to the Committees of the Council. In particular, it abolishes the Disciplinary Committee and establishes in its place the Fitness to Practise Committee; in addition it establishes the Registration Committee, the Registration Appeals Committee and the Standards Committee.

Article 5 establishes a panel of persons (a Hearings Panel) from whom the members of the Registration Appeals Committee and the Fitness to Practise Committee are to be drawn.

Article 6 provides powers of delegation for the Council, its Committees and the registrar.

Article 7 replaces the registers of ophthalmic opticians with a register of optometrists. Article 8 makes registration dependant upon the applicant being a fit person to be registered. Registration matters are also dealt with in article 9 (register of students), article 10 (register of bodies corporate), article 11 (fee to be charged for registration and power enabling the Council to provide in Rules for the registration of particular specialties or proficiencies) and article 13 (publication of register and proof of registration). Article 12 requires registrants to have in place a policy of insurance to insure against civil liabilities for work done by them.

Article 14 introduces new requirements for training and development for registered persons and for those seeking to restore their name to the register. Article 15 provides for the Council to establish standards for education and training.

Article 16 introduces a new Part 2A to the Opticians Act 1989 relating to Fitness to Practise. This Part provides for–

- (a) the Council to give guidance on fitness to practise;
- (b) the disclosure of documents relevant to the functions of the Council and its Committees;
- (c) dealing with allegations that a person’s fitness to practise is impaired;
- (d) the powers of the Fitness to Practise Committee;
- (e) the Fitness to Practise Committee to order immediate suspension or conditional registration of any person;
- (f) the erasure of a person’s name from the register;
- (g) the Fitness to Practise Committee to order restoration of a person’s name to the register;
- (h) the Fitness to Practise Committee to make an interim order suspending a person’s name from the register or making his registration conditional and for the review of the order.

Article 17 substitutes a new Part 3A of the Act relating to proceedings and appeals. It provides for–

- (a) the administration of oaths in proceedings before the Committees of the Council;

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (b) the making by the Council of rules as to the procedure to be followed and the evidence to be observed before those Committees;
- (c) the appointment of legal advisers;
- (d) registration decisions to be appealable to the Registration Appeals Committee;
- (e) certain decisions of the Fitness to Practise Committee and the Registration Appeals Committee to be appealable to the specified court;
- (f) the date decisions are to take effect.

Part 5 of the Order contains further amendments to the Act. Article 18 relates to the fitting of contact lenses and article 19 relates to the duties to be performed on sight testing. Article 20 makes provision as to the supply of contact lenses and protective eyewear.

Article 21 provides for proceedings under the Act to be commenced at any time within 6 months from the date on which evidence sufficient in the opinion of the Council to justify a prosecution comes to the Council's knowledge.

Article 22 contains provisions as to the making of Rules.

Article 23 enables the Council to provide money to persons or a body whose function is to investigate and resolve consumer complaints against registered opticians.

Article 24 amends references to the default powers of the Privy Council which are consequential on changes made elsewhere in this Order.

Article 25 (amongst other matters) provides the procedure for regulations introduced under article 17. Article 26 (amongst other matters) makes provision as to length of time members serve on the Council.

Article 27 introduces a new Schedule 1A which makes provision for appeals to the Registration Appeals Committee from decisions of the registrar or the Council relating to the registration of any person.

Article 28 and Schedule 1 contain a number of minor amendments to the Opticians Act 1989 and subordinate legislation which are consequential upon changes made elsewhere in the Order.

Article 29 and Schedule 2 provide for transitional matters.