

2015 No. 400

HEALTH CARE AND ASSOCIATED PROFESSIONS

**The Professional Standards Authority for Health and Social Care
(Fees) Regulations 2015**

<i>Made</i> - - - -	<i>26th February 2015</i>
<i>Laid before Parliament</i>	<i>27th February 2015</i>
<i>Laid before the Scottish Parliament</i>	<i>27th February 2015</i>
<i>Coming into force</i> - -	<i>1st April 2015</i>

At the Council Chamber, Whitehall the 26th day of February 2015

By the Lords of Her Majesty's Most Honourable Privy Council

The Privy Council makes the following Regulations in exercise of the powers conferred by sections 25A(1), (3), (10) and (11) and 38(5) and (7) of the National Health Service Reform and Health Care Professions Act 2002(a).

In accordance with section 25A(12) of that Act, the Privy Council has consulted the Professional Standards Authority for Health and Social Care, the regulatory bodies(b) and those other persons which it considers appropriate to consult.

Citation, commencement and interpretation

1.—(1) These Regulations—

- (a) may be cited as the Professional Standards Authority for Health and Social Care (Fees) Regulations 2015;
- (b) come into force on 1st April 2015.

(2) In these Regulations—

“amended fee notice” means a fee notice amended to reflect a periodic fee re-determined pursuant to regulation 7;

“Bank of England base rate” means—

- (a) the rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short term liquidity in the money markets; or

(a) 2002 c. 17. Section 25A was inserted by section 224 of the Health and Social Care Act 2012 (c. 7) (“the 2012 Act”). Section 38 was also amended by sections 224 and 225 of the 2012 Act by, *inter alia*, insertion of subsection (3A).

(b) The regulatory bodies are those referred to in section 25 of the National Health Service Reform and Health Care Professions Act 2002.

(b) where an order under section 19 of the Bank of England Act 1998(a) is in force, any equivalent rate determined by the Treasury under that section;

“chargeable period” means the period specified in regulation 2(2);

“due date” is the date determined in accordance with regulation 6(3);

“fee notice” has the meaning given in regulation 6(1);

“periodic fee” refers to a fee which is payable by a regulatory body by virtue of regulation 2;

“registrant” means a person whose name appears on a register maintained by the regulatory body which has responsibility for regulating the profession to which that person belongs, other than a register established and maintained pursuant to section 25D.

(3) In these Regulations references to numbered sections and parts of sections are references to so numbered sections and parts of sections of the National Health Service Reform and Health Care Professions Act 2002.

Obligation on regulatory bodies to pay fees

2.—(1) Each regulatory body(b) must pay the Authority, in respect of the chargeable period, a periodic fee of an amount determined or, as the case may be, re-determined, by the Privy Council in respect of the Authority’s functions in relation to it.

(2) The chargeable period commences on 1st April and ends on the following 31st March: but the first chargeable period commences on 1st August 2015 and ends on 31st March 2016.

Functions in respect of which a periodic fee is payable

3. The functions of the Authority in respect of which each regulatory body must pay a periodic fee to it are—

(a) those under—

(i) subsection (2) of section 25 (the Professional Standards Authority for Health and Social Care)(c);

(ii) subsection (5) of section 25A (funding of the Authority);

(iii) subsection (1)(a) of section 25B (power of the Authority to advise regulatory bodies etc)(d), but only to the extent that fees are not payable in respect of the performance of such functions under subsection (2) of that section;

(iv) subsection (2)(a) of section 25C (appointments to regulatory bodies)(e);

(v) subsections (1) and, to the extent that subsection (2A) does not apply, (2) of section 26 (powers and duties of the Authority: general)(f);

(vi) subsections (1) and (4) of section 26B (duty to inform and consult the public)(g), to the extent to which the functions relate to regulatory bodies;

(vii) subsections (2) and (4) of section 27 (regulatory bodies and the Authority)(h);

(viii) subsection (4) of section 29 (reference of disciplinary cases by Authority to court)(i);

(b) those functions in paragraphs 15(1) to (4) and 16(1) and (2) of Schedule 7(j) to the extent to which they relate to regulatory bodies; and

(a) 1998 c. 11.

(b) A “regulatory body” means a body referred to in section 25(3) of the 2012 Act.

(c) Subsection (2) was amended by sections 223 and 230 of, and paragraph 62 of Part 3 of Schedule 15 to, the 2012 Act.

(d) Section 25B was inserted by section 225 of the 2012 Act.

(e) Section 25C was inserted by section 227 of the 2012 Act.

(f) Section 26 was amended by sections 229 and 230 of, and paragraphs 62 and 63 of Part 3 of Schedule 15 to, the 2012 Act and section 115 of the Health and Social Care Act 2008.

(g) Section 26B was amended by sections 223, 229 and 230 of, and paragraph 62 of Part 3 of Schedule 15 to, the 2012 Act.

(h) Section 27 was amended by section 230 of, and paragraphs 62 and 63 of Part 3 of Schedule 15 to, the 2012 Act.

(i) Section 29 was amended by section 230 of, and paragraphs 62 and 63 of Part 3 of Schedule 15 to, the 2012 Act.

(j) Paragraph 15 was amended by section 230 of, and paragraph 62 of Part 3 of Schedule 15 to, the 2012 Act.

- (c) such functions as may be performed by the Authority pursuant to paragraph 16(3) or (4) of Schedule 7(a) to the extent to which they relate to regulatory bodies.

Privy Council powers to require information from regulatory bodies

4.—(1) In order to determine a periodic fee, the Privy Council may, in writing, require a regulatory body to provide it with information it considers necessary for that purpose.

(2) That information may include information about current and anticipated numbers of persons whose names appear or are reasonably expected to appear on a register maintained by the regulatory body concerned pursuant to statute.

(3) A register referred to in paragraph (2) does not include a register established and maintained pursuant to section 25D.

(4) The Privy Council must specify in writing the time by when the information it has requested must be received.

(5) The Privy Council may, in writing, extend the time so specified to such later time as it thinks reasonable in all the circumstances.

Method for determining the amount of a fee

5. The amount of the periodic fee payable by a regulatory body is determined in accordance with the formula—

$$TFR \times n\%$$

where—

“TFR” is the total funding requirement of the Authority as determined by the Privy Council under section 25A(9)(a);

“n%” is the proportion which the number of registrants registered with the regulatory body in question bears to the aggregate of all registrants registered with all the regulatory bodies.

Time for payment and interest payable

6.—(1) The Privy Council must send a written notice to the regulatory body (the “fee notice”) stating the amount of the periodic fee which is payable by that regulatory body and specifying the chargeable period to which it relates.

(2) A periodic fee must be paid by the due date.

(3) The due date is that specified in the fee notice or, in the case of a re-determined periodic fee pursuant to regulation 7, in the amended fee notice.

(4) The date in a fee notice or an amended fee notice must not be earlier than 30 clear days after the date of the notice.

(5) Where a regulatory body does not pay the full amount of the periodic fee by the due date, it must pay interest to the Authority on the outstanding amount of that fee.

(6) Interest is to accrue daily from the day immediately following the due date at the annual rate of 1.5% above the Bank of England base rate.

Re-determination of a fee

7. On a request by the Authority or by a regulatory body, or on the Privy Council’s own initiative, the Privy Council may re-determine the amount of a periodic fee payable by a regulatory body.

(a) Paragraph 16 was amended by sections 223 and 230 of, and paragraph 62 of Part 3 of Schedule 15 to, the 2012 Act and section 114 of the Health and Social Care Act 2008.

Richard Tilbrook
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for fees to be paid by the regulatory bodies mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002 (“the 2002 Act”), as amended by the Health and Social Care Act 2012 (c. 7). Section 25A of the 2002 Act, inserted by the 2012 Act, provides for the costs of the Professional Standards Authority for Health and Social Care (“the Authority”) (formerly the Council for Healthcare Regulatory Excellence) incurred in respect of its functions in relation to the regulatory bodies to be funded by fees imposed on those regulatory bodies by virtue of regulations under that section. Fees are determined by the Privy Council and paid to the Authority. Section 25A provides for a process of consultation and determination by the Privy Council of the Authority’s costs and for the fees which each regulatory body should be required to pay towards those costs. It also provides that the method for determining the amount of a fee is to be set out in regulations.

Regulation 2 requires each regulatory body to pay to the Authority a fee determined periodically by the Privy Council, and provides for the first chargeable period to commence on 1st August 2015 and end on 31st March 2016 and for subsequent chargeable periods to commence on 1st April and end on the following 31st March. The fee (“a periodic fee”) is to be paid in respect of the chargeable period.

Regulation 3 lists the functions in respect of which a periodic fee is to be paid.

Regulation 4 gives the Privy Council powers to require information from the regulatory bodies for the purpose of assessing the periodic fee payable.

Regulation 5 sets out the formula by which the amount of a periodic fee is to be determined.

Regulation 6 provides for the time for payment of a periodic fee to be set out in a written fee notice sent by the Privy Council, which must not be sooner than 30 clear days after the date of the notice. Provision is also made for the accrual of interest daily on fees not paid by the due date, at the annual rate of 1.5% above the Bank of England base rate.

Regulation 7 provides for the re-determination of periodic fees on the request of the Authority, a regulatory body, or on the Privy Council’s own initiative.

An impact assessment has been prepared in relation to these Regulations and is available from The Professional Standards Team, Department of Health, 2N11, Quarry House, Leeds, LS2 7UE. An electronic copy can be found at <http://www.dh.gov.uk>.

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£4.25

UK2015022621 03/2015 19585

<http://www.legislation.gov.uk/id/uksi/2015/400>

ISBN 978-0-11-113087-2



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