



Opticians Act 1989

1989 CHAPTER 44

[^{F1}PART 3A

PROCEEDINGS AND APPEALS

[^{F1}23D. Legal advisers

- (1) The Council shall appoint persons to be legal advisers.
- (2) The legal advisers are appointed for the purpose of giving advice to—
 - (a) the Fitness to Practise Committee; and
 - (b) the Registration Appeals Committee,on questions of law arising in connection with any matter which the Committee is considering.
- (3) To be qualified for appointment as a legal adviser, a person must—
 - (a) have at least a five year general qualification (within the meaning of section 71 of the Courts and Legal Services Act 1990);
 - (b) be an advocate or solicitor in Scotland of at least five years standing; or
 - (c) be a member of the Bar of Northern Ireland or [^{F2}solicitor of the Court of Judicature of Northern Ireland] of at least five years standing.
- (4) A legal adviser must not be a member of the Council.
- (5) The Council may pay such fees, allowances and expenses to a legal adviser as the Council consider appropriate.
- (6) Legal advisers appointed under this section may be appointed either generally or for any particular class of proceedings, and shall hold and vacate office in accordance with the terms of the instrument under which they are appointed.
- (7) The Council may make rules as to the functions of legal advisers appointed under this section and those rules may in particular contain provision—
 - (a) for legal advisers to advise on the drafting of decisions;

Changes to legislation: Opticians Act 1989, Section 23D is up to date with all changes known to be in force on or before 01 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (b) for securing that where the adviser advises a Committee on any question of law as to evidence, procedure or any other matters set out in the rules, he shall do so in the presence of every party, or person representing a party, to the proceedings who appears at the proceedings, or, if the advice is tendered after the Committee have begun to deliberate as to their findings, that every such party or person shall be informed as to the advice tendered by the legal adviser; and
- (c) for incidental and supplementary matters.]

Textual Amendments

- F1** Pt. 3A inserted (coming into force in accordance with art. 1(3)-(6) of the amending S.I.) by [The Opticians Act 1989 \(Amendment\) Order 2005 \(S.I. 2005/848\)](#), [art. 17\(2\)](#) (with [Sch. 2](#))
- F2** Words in Act substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), s. 148(1), [Sch. 11 para. 5](#); [S.I. 2009/1604](#), art. 2(d)

Changes to legislation:

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Changes and effects yet to be applied to :

- [s. 23D\(2\)\(a\)](#) and word repealed by [2008 c. 14 Sch. 7 para. 43](#)[Sch. 15 Pt. 2](#)

Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- [s. 13D\(2\)\(h\)\(i\)](#) inserted by [S.I. 2008/1774 Sch. 2 para. 2](#) (This amendment not applied to [legislation.gov.uk](#). It was due to come into force on the coming into force of [s. 44\(1\)](#) of the [Safeguarding Vulnerable Groups Act 2006 \(c. 47\)](#), see [art. 1\(4\)](#). [S. 44\(1\)](#) was repealed without ever being in force on [10.9.2012](#) by [2012 c. 9, s. 75\(6\)](#), [Sch. 10 Pt. 5](#); [S.I. 2012/2234, art. 2](#))
- [s. 13AA](#) inserted by [2008 c. 14 Sch. 7 para. 30](#)
- [s. 23I](#) inserted by [2008 c. 14 Sch. 7 para. 46](#)
- [s. 23AA](#) inserted by [2008 c. 14 Sch. 7 para. 39](#)
- [s. 23CA](#) inserted by [2008 c. 14 Sch. 7 para. 42](#)