



Department  
of Health

# Professional Standards Authority for Health and Social Care

## Draft Fees Regulations

October 2014

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Cost Centre: 13730

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Consultation

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**Target audience:**

Regulatory Bodies  
GPs  
Nurses  
Doctors  
Pharmacists  
Midwives  
Chiropodists/Podiatrists  
Dieticians  
Royal Colleges  
Social care providers  
General Public  
Patients

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# Professional Standards Authority for Health and Social Care

## Draft Fees Regulations

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# Contents

Contents .....	5
Executive summary .....	6
1. Background .....	7
2. The Draft Regulations .....	10
3. Summary of Consultation Questions.....	16
4. Responding to this Consultation .....	17
Annex A – Draft Fee Regulations.....	19

# Executive summary

- In 2010, the Department of Health (DH) conducted a review of its Arm's Length Bodies (ALBs) as part of the wider changes envisaged for the NHS and the drive to increase accountability and transparency across Government, while reducing the number and associated costs of public bodies.
- ***The Liberating the NHS: Report of the arm's-length bodies***<sup>1</sup> review found no compelling reason for the then Council for Healthcare Regulatory Excellence (CHRE), the body responsible for the oversight of the health professions regulators, to continue to be funded by the Government and Devolved Administrations.
- Instead, the review recommended that the CHRE be funded through a compulsory levy (or fee) on the regulatory bodies it oversees.
- The Health and Social Care Act 2012 provided for the CHRE to be renamed the Professional Standards Authority for Health and Social Care ("the Authority" or the PSA) and for the Authority to be funded in the main by the regulatory bodies.
- Subject to the approval of Parliament, the Privy Council must make regulations requiring each regulatory body to pay periodic fees to the Authority. The regulations must also set out the functions of the Authority to be included in the fee and the methodology for determining the level of fees to be paid by each regulatory body.
- This consultation seeks views on a proposed draft of these regulations, attached at Annex A.
- Subject to the response to this consultation and Parliamentary approval, we are aiming for the regulations to be laid in late 2014, to commence in early 2015 to facilitate the collection of fees relevant to the period from 1 April 2015 by the Authority.
- The consultation exercise will run for 8 weeks. The closing date for comments is 28 November 2014.
- Once the consultation has closed, we will analyse responses, finalise the proposals and (if required) draft amendments to the regulations. The regulations will then be laid before both the UK and Scottish Parliaments.
- This document is published alongside a consultation stage Impact Assessment that assesses the costs and benefits of the options (including a Small and Micro-sized Business Assessment and an assessment of the impact on equality).

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<sup>1</sup> <https://www.gov.uk/government/publications/liberating-the-nhs-report-of-the-arms-length-bodies-review>

# 1. Background

- 1 The Professional Standards Authority is an Arm's Length Body (ALB) of the Department of Health (DH), currently funded by DH and the Devolved Administrations, with responsibility for the scrutiny and assurance of the activities undertaken by the nine health professions regulators:
  - General Chiropractic Council
  - General Dental Council
  - General Medical Council
  - General Optical Council
  - General Osteopathic Council
  - General Pharmaceutical Council
  - Health and Care Professions Council
  - Nursing and Midwifery Council
  - Pharmaceutical Society of Northern Ireland
- 2 In 2010, the Department of Health conducted a review of its ALBs, as part of the wider changes envisaged for the health care sector, and the drive to increase accountability and transparency across government while reducing the number and costs of public bodies.
- 3 The aim of the review was to simplify the national landscape, remove duplication and better align the ALB sector with the rest of the health and social care system by:
  - ensuring that functions related to quality and safety improvement are devolved closer to the frontline;
  - integrating and streamlining existing national health improvement and protection bodies and functions within a new Public Health Service;
  - creating a more coherent and resilient regulatory system with clarity of responsibilities and reduced bureaucracy around licensing and inspection;
  - centralising data returns in the Health and Social Care Information Centre;
  - maximising opportunities for outsourcing of functions and shared business support functions across the sector to reduce overall costs and seek to realise assets through the commercialisation of activities.
- 4 The report (see box 1) recognised that the CHRE fulfilled an ongoing need, but found no reason why it should continue to be funded through DH and the Devolved Administrations. Instead, the report recommended that CHRE should be renamed and funded through a fee on the regulatory bodies it oversees. The proposal to make the Council self-funding also

reflects the long-standing principle that the system of professional regulation in healthcare is funded by the professionals themselves.

**Box 1**

Extract from *Liberating the NHS: Report of the arm's length bodies review*

**“Council for Healthcare Regulatory Excellence (CHRE)**

The Council for Healthcare Regulatory Excellence is an Executive Non-Departmental Public Body responsible for scrutiny and quality assurance of the nine health care professions regulators in the UK. We have considered whether it is essential that there continues to be a regulator of the professional regulators. We concluded that the Council for Healthcare Regulatory Excellence does currently fulfil an ongoing need to quality assure professional regulation, but we will keep this under review.

Going forward, we see no compelling reason why the Council for Healthcare Regulatory Excellence should remain as an Executive Non-Departmental Public Body in the arm's-length bodies sector. Therefore, we propose to make it self-funding through a levy on those it regulates. We also propose to extend the Council for Healthcare Regulatory Excellence's remit to set standards for and to quality assure, voluntary registers held by existing statutory health and care professions regulators and others such as professional bodies. We intend to include provisions in the Health Bill to make these and associated changes.”

## Health and Social Care Act 2012

5 The proposals and recommendations relating to CHRE made through this review were taken forward within the Health and Social Care Act 2012. This Act provided for CHRE to be renamed the Professional Standards Authority for Health and Social Care (“the Authority”) and for the Authority to be funded in the main by a fee imposed on the health professions regulatory bodies. The Act confers a duty on the Privy Council to enact legislation requiring the nine healthcare professional regulatory bodies to pay periodic fees to the Authority. The Act also makes other provisions in relation to the content of the regulations as detailed below: -

- Impose a duty on the regulatory bodies overseen by the Authority to pay fees to the Authority.
- Stipulate which functions are to be funded by the fee.
- Set out the method by which Privy Council must determine the level of fees paid by each regulatory body (see below).
- Allow the Authority to recoup its costs from the regulators in advance of expenditure (i.e. to charge fees in April 2015 for services to be rendered in 2015/2016).



- Require payment of the fees within a given time.
- Provide that when some or all of a fee is not paid on time, the outstanding amount is subject to interest.
- Allow Privy Council to re-determine the fee at the request of the Authority, the regulatory bodies, or on its own initiative.

## 2. The Draft Regulations

### Functions to be funded by the fee

- 6 Under the provisions of section 25A of the National Health Service Reform and Health Care Professions Act 2002 (as inserted by section 223 of the Health and Social Care Act 2012), the Privy Council must make regulations that require each regulatory body to pay the Authority periodic fees in respect of the Authority's functions in relation to that body as specified in the regulations.
- 7 The draft regulations attached to this consultation provide for the functions in Table 1 to be covered by the fee.

**Table 1: Functions to be Covered by the Fee**

Section*	Title
25 (2)	<p><b>The Professional Standards Authority for Health and Social Care</b></p> <p>i) promote the interest of patients and other members of the public in relation to the performance of the regulatory bodies</p> <p>ii) promote best practice in the performance of professional regulation functions</p> <p>iii) formulate principles of good professional self-regulation and encourage regulatory bodies to conform</p> <p>iv) promote co-operation between regulatory bodies</p>
25A (5)	<p><b>Funding of the Authority</b></p> <p>Process for determining the periodic fees to be paid by the regulatory bodies</p>
25B	<p><b>Power of the Authority to advise regulatory bodies etc.</b></p> <p>Advice to the regulatory bodies in relation to their statutory functions</p> <p>This excludes advice provided by the Authority for which a separate fee may be charged</p>
25C (2)(a)	<p><b>Appointments to regulatory bodies</b></p> <p>The Authority may assist the Privy Council with any of its appointments functions in relation to a regulatory body.</p>

<p>26 (1) and (2)</p>	<p><b>Powers and duties of the Authority: General</b></p> <p>The Authority may do anything which appears to it to be necessary or expedient for the purpose of or in connection with the performance of its functions to the extent that such functions are exercised in relation to the regulatory bodies. It may:</p> <ul style="list-style-type: none"> <li>i) investigate and report on the performance of each regulatory body</li> <li>ii) where a regulatory body performs functions corresponding to those of another, investigate and report how the performance of those functions compares</li> <li>ii) make recommendations to a regulatory body to change the way it performs its functions</li> </ul>
<p>26B (1) and (4)</p>	<p><b>Duty to inform and consult the public</b></p> <ul style="list-style-type: none"> <li>i) publication of information about the authority and the exercise of its functions</li> <li>ii) seek views of members of the public and organisations which appear to represent the interests of service users on matters relevant to the functions of the Authority</li> </ul>
<p>27 (2) and (4)</p>	<p><b>Power to make directions requiring regulatory body to make rules.</b></p>
<p>28</p>	<p><b>Complaints about regulatory bodies</b></p> <p>Regulations may make provision as to the investigation of complaints about regulatory bodies. <b>(Note this section has not yet been commenced)</b></p>
<p>29 (4)</p>	<p><b>Reference of disciplinary cases by Authority to court</b></p> <p>The Authority may refer a case to the relevant court if it considers certain decision about a practitioners fitness to practise are unduly lenient or should not have been made</p>
<p>Schedule 7, paragraphs 15(1)-(4), 16(1), (1B) &amp; (2)*</p>	<p><b>Governance functions</b></p> <p>Accounting, reporting and planning requirements imposed on the Authority.</p> <p><i>*These functions are only included to the extent to which they relate to the regulatory bodies.</i></p>

Schedule 7, paragraphs 16(3) and (4)*	<p><b>Parliamentary accountability</b></p> <p>If required to do so, the Authority must lay a report on any matter as requested by the UK Parliament, the Northern Ireland Assembly, or the Scottish Parliament.</p> <p><i>*These apply only in so far as such work related to regulatory bodies.</i></p>
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\* Note: Section numbers relate to those in the NHS Reform and Health Professions Act 2002 (as amended)

- 8 Provisions in the Act also prevent certain other functions of the Authority being funded through the fee. These are set out in Table 2.

**Table 2: Functions Excluded from the Fee**

Section	Title
25G	Power of the Authority to accredit voluntary registers
25H	Accreditation of voluntary register: impact assessment
25I	Functions of the Authority in relation to accredited voluntary registers
26A	Powers of Secretary of State and devolved administrations (to request advice etc.)

Section 25B empowers the Authority to provide advice or auditing services to the regulatory bodies, or to bodies with functions that correspond to those of the regulatory bodies, whether or not these relate to health or social care. Where it does so, a compulsory fee, determined by the Authority, will be paid by the bodies to which it provides advice or auditing services. However, the Authority may only provide advice or auditing services under this section if doing so would assist it in the performance of its functions ( apart from its function of providing advice, reports or investigations to the Secretary of State or the devolved administrations under section 26A).

Question 1: Do you agree that the functions listed in Table 1 should be covered by the fee? Please provide the rationale behind your response and any amendments to the included functions you would suggest

Question 2: Do you agree the functions listed in Table 2 should be excluded from the fee?

## Methodology for determining the fee

- 9 The Department of Health asked the Authority to provide advice on the method for apportioning the fee between the regulatory bodies it oversees. In reaching a recommendation, the Authority adhered to the principle that the fee structure should be transparent, simple and not likely to add unduly to administrative costs.
- 10 The Health and Social Care Act 2012 requires the fee to be imposed on the regulatory bodies. However, it will be for each regulator to decide whether to absorb this cost, or to meet it through increasing the registration fees it charges its registrants.
- 11 The Department of Health considered three potential fee structures in depth<sup>2</sup>:
- **Method 0:** Do nothing
  - **Method 1:** Apportion fees between the healthcare professional regulators according to the number of registrants
  - **Method 2:** Fixed equal fee charged to each regulator, with the remainder of the total apportioned according to the number of registrants the regulators oversees.

### Method 0: Do nothing

- 12 This is not considered a viable option as secondary legislation is necessary to realise the policy intention set out in the Health and Social Care Act 2012. The Authority's fees need to be compulsory (i.e. set out in legislation), to prevent any actual or perceived compromise of the Authority's independence from the regulators and from Government.

### Method 1: number of registrants

- 13 Under Method 1, secondary legislation would be introduced to give the Authority the power to become self-funding via raising fees from the nine regulatory bodies it oversees, based on the number of registrants each regulator oversees.
- 14 At present, the number of registrants per regulator is the only feasible proxy available for the Authority to use to apportion the fee between the regulatory bodies it oversees and this is consequently the preferred method. However, the Authority has committed to explore whether other Management Information may be used for determining the fees in the future.

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<sup>2</sup> A wide variety of options were initially considered by the PSA, with the majority deemed unsuitable at an early stage and therefore not assessed in detail by the Department of Health.

## **Method 2: Fixed equal fee charged to each regulator, with the remainder of the total apportioned according to the number of registrants the regulators oversees.**

15 Under Method 2, secondary legislation would again be introduced to give the Authority the power to become self-funding via raising fees from the nine regulatory bodies it oversees. However, under this option the fee would be comprised of an equal fixed charge to all regulators to cover the Authority's activities from which they benefit equally, with the remainder of the costs apportioned according to the number of registrants overseen by each regulator. Although this option was considered, there is currently not enough management information available that can be used as a suitable proxy for this scenario and this is therefore not currently a viable option.

## **Preferred Option**

16 The Government has considered the advice provided by the Authority and HM Treasury and considers that Method 1 would be the best option. Under this option, the fee structure is simple and easily understood, the smaller regulatory bodies would not be disproportionately impacted and it is compliant with HM Treasury Managing Public Money guidance.

The draft regulations attached to this consultation are therefore based on using method 1 to determine the fee.

Question 3: Do you agree that method 1 – apportionment of the fee according to the number of registrants – is currently the only viable option available for determining the fees? Please explain the rationale for your response.

## **Timetable for payment and interest payments**

17 The Privy Council will determine the fee to be paid by each regulatory body in accordance with the method for determining the fee as set out above. The Privy Council, or more usually, the Authority on its behalf will send a written fee demand to the regulatory bodies setting out the amount of the periodic fee, the period to which that fee relates, and the date by which payment must be made.

18 The draft regulations currently require a “notice period” of 15 days for payment of the fee.

Question 4: Do you agree that the regulations should specify that the demand for payment should include a period of notice?

Question 4a: If so do you agree that this period should be 15 days?

Question 4b: If not, please specify a different period and explain why it is preferred.

19 In the event of late payment of fees, the regulations provide for interest to be payable. This is based on the HMRC interest penalties and is designed to ensure that the Authority is financially sound and able to focus on its primary function of public protection.

Question 5: Do you agree that interest due on late payment should be set as drafted?

Question 6: Do you agree with the Department's assessment that the implementation of this policy will not have an adverse impact on equality?

Question 7: Do you have any comments on the draft Regulations?

### 3. Summary of Consultation Questions

Question 1: Do you agree that the functions listed in Table 1 should be covered by the fee? Please also provide the rationale behind your response and any amendments to the included functions you would suggest.

Question 2: Do you agree the functions listed in Table 2 should be excluded from the fee?

Question 3: Do you agree that method 1 – apportionment of the fee according to the number of registrants – is currently the only viable option available for determining the fees? Please explain the rationale for your response.

Question 4: Do you agree that the regulations should specify that the demand for payment should include a period of notice?

Question 4a: If so, do you agree that this period should be 15 days?

Question 4b: If not, please specify a different period and explain why this is preferred.

Question 5: Do you agree that the interest due on late payment should be set as drafted?

Question 6: Do you agree with Department's assessment that the implementation of this policy will not have an adverse impact on equality?

Question 7: Do you have any comments on the draft Regulations?



## 4. Responding to this Consultation

### Consultation Process

- 20 This document launches a consultation on regulations setting out the funding arrangements for the Professional Standards Authority for Health and Social Care. It is being run in accordance with the Cabinet Office Code of Practice on Consultations (reproduced below). The closing date for the consultation is 28 November 2014.
- 21 There is a full list of the questions we are asking on page 14 of this consultation and there is a questionnaire on the Department's website which can be printed and sent by post to: Professional Standards Authority Fees Consultation Room, 2N11 Quarry House, Quarry Hill, Leeds LS2 7UE
- 22 Alternatively, comments can be sent by e-mail to: [hrdlistening@dh.gsi.gov.uk](mailto:hrdlistening@dh.gsi.gov.uk)
- 23 It will help us to analyse the responses if respondents fill in the questionnaire but responses that do not follow the structure of the questionnaire will be considered equally. It would also help if responses were sent in Word format, rather than pdf.

### Comments on the consultation process itself

- 24 If you have any concerns or comments which you would like to make relating specifically to the consultation process itself please contact:
- Consultations Coordinator, Department of Health 3E48, Quarry House, Quarry Hill,  
Leeds LS2 7UE
- 25 Please do not send consultation responses to this address.

### Confidentiality of information

- 26 We manage the information you provide in response to this consultation in accordance with the Department of Health's Information Charter ([www.dh.gov.uk/en/FreedomOfInformation/DH\\_088010](http://www.dh.gov.uk/en/FreedomOfInformation/DH_088010)).
- 27 Information we receive, including personal information, may be published or disclosed in accordance with the access to information regimes (primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).
- 28 If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be

maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

29 The Department will process your personal data in accordance with the DPA and in most circumstances this will mean that your personal data will not be disclosed to third parties.

## Summary of the consultation responses

30 A summary of the response to this consultation will be made available before or alongside any further action, such as laying legislation before Parliament, and will be placed on the Gov.UK website ([www.gov.uk](http://www.gov.uk))

# Annex A – Draft Fee Regulations

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STATUTORY INSTRUMENTS

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**2014 No. 000**

**HEALTH CARE AND ASSOCIATED PROFESSIONS**

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**The Professional Standards Authority for Health and Social Care (Fees) Regulations 2014**

<i>Made</i> - - - -	***2014
<i>Laid before Parliament</i>	***2014
<i>Laid before the Scottish Parliament</i>	***2014
<i>Coming into force</i> - -	***2014

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(3).

In accordance with section 25A(12) of that Act, the Privy Council has consulted the Professional Standards Authority for Health and Social Care, the bodies referred to in that section 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 2014;
- (b) come into force on \*\*\* \*\* 2014.

(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—

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<sup>(3)</sup> c. 17. Section 25A was inserted by section 223 of the Health and Social Care Act 2012 (c. 7). Section 25A(3) provides that regulations must, in particular, provide for the method of determining the amount of a fee under the regulations. Section 38 was also amended by section 223 of the Health and Social Care Act 2012 by, *inter alia*, insertion of sub-section (3A).

- (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
- (b) where an order under section 19 of the Bank of England Act 1998<sup>(4)</sup> is in force, any equivalent rate determined by the Treasury under that section;

“chargeable period” is to be construed in accordance with regulation 2;

“due date” is to be construed in accordance with regulation 6;

“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.

(3) References in these Regulations to sections and parts of sections refer to 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<sup>(5)</sup> must pay the Authority<sup>(6)</sup> 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) A periodic fee is to be determined or re-determined in respect of such period (“the chargeable period”) as the Privy Council chooses, and the chargeable period may occur after the fee becomes payable.

### Functions in respect of which a periodic fee is payable

3. The functions of the Authority in respect of which the 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);
  - (ii) subsection (5) of section 25A (funding of the Authority)<sup>(7)</sup>;
  - (iii) subsection (1)(a) of section 25B (power of the Authority to advise regulatory bodies etc)<sup>(8)</sup>, but only to the extent that such fees are not recovered 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)<sup>(9)</sup>;
  - (v) subsections (1) and, to the extent that paragraph (2A) does not apply, (2) of section 26 (powers and duties of the Authority: general)<sup>(10)</sup>;

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<sup>(4)</sup> 1998, c. 11.

<sup>(5)</sup> “the regulatory bodies” means the bodies described in section 25(3) of the enabling Act, as amended by section 127 and paragraph 17(1) to (3) of Schedule 10 to the Health and Social Care Act 2008; by article 68 of and paragraph 10(1) and (2) of Part 1 of Schedule 4 to SI 2010/231, and by section [212(7)(j)] of the [Health and Social Care Act 2012].

<sup>(6)</sup> Section 25(1) of the enabling Act was amended by section [221(2)] of the [Health and Social Care Act 2012] and sections 25, 26, 26A, 26B, 27 to 29 of, and Schedule 7 to, the enabling Act were amended by paragraph [62] of Schedule [16] to the [Health and Social Care Act 2012] so that in those sections of and in Schedule 7 to the enabling Act, “the Authority” means the Professional Standards Authority for Health and Social Care. Other uses of the term “the authority” elsewhere in the enabling Act refer to the defined term “the appropriate authority”.

<sup>(7)</sup> Section 25A was inserted by section [223(1)] of the [Health and Social Care Act 2012].

<sup>(8)</sup> Section 25B was inserted by section [224(1)] of the [Health and Social Care Act 2012].

<sup>(9)</sup> Section 25C was inserted by section [226] of the [Health and Social Care Act 2012].

<sup>(10)</sup> Section 26 was amended by section [227(2)] of the [Health and Social Care Act 2012].

- (vi) subsection (1) and (4) of section 26B (duty to inform and consult the public)<sup>(11)</sup>, to the extent to which the functions relate to regulatory bodies;
- (vii) subsections (2) and (4) of section 27 (regulatory bodies and the Authority);
- (viii) subsection (4) of section 29 (references of disciplinary cases by Authority to court)<sup>(12)</sup>;
- (b) such functions as may be performed by the Authority pursuant to any regulations made under section 28 (complaints about regulatory bodies)<sup>(13)</sup>;
- (c) those functions in paragraphs 15(1) to (4) and 16(1), (1B) and (2) of Schedule 7<sup>(14)</sup> to the extent to which they relate to regulatory bodies; and
- (d) such functions as may be performed by the Authority pursuant to paragraph 16(3) or (4) of Schedule 7<sup>(15)</sup> 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 past, current and anticipated numbers of persons whose names appear on a register maintained by the regulatory body concerned pursuant to statute: this does not include registers established and maintained pursuant to section 25D.

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

(4) 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—

$$\text{TFR} \times n\%$$

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.

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<sup>(11)</sup> Section 26B was amended by section [228(7)] of the [Health and Social Care Act 2012].

<sup>(12)</sup> Section 29 was amended by SI 2002/3135, SI 2004/1771, SI 2005/848 and 2011, and SI 2010/231. Other amendments made by section 118 of the Health and Social Care Act 2008, which were not commenced, were revoked by paragraph [73(2)(b)] of Schedule [16] to the [Health and Social Care Act 2012]. Paragraph [73(2)(a)] of that Schedule also amended section 29.

<sup>(13)</sup> Section 28 is in force in so far as it confers any power to make an order or regulation, but not otherwise.

<sup>(14)</sup> Paragraph 15 was amended by section [225(6)] of the [Health and Social Care Act 2012].

<sup>(15)</sup> Paragraph 16 was amended by section 114(1) and (6) of the Health and Social Care Act 2008, and by section [225(7)] of the [Health and Social Care Act 2012].

**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 specified by the Privy Council in a fee notice or an amended fee notice must not be earlier than 15 clear days after the date of the notice.

(5) Where that 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.

*Judith Simpson*

\*\* \*\*\*\* 2014

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 the fees which each regulatory body should be required 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 fees determined periodically by the Privy Council, and provides for the Privy Council to choose the “chargeable period” in respect of which such a fee (“a periodic fee”) is to be paid.

Regulation 3 lists the functions in respect of which periodic fees are.

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 15 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 its own initiative.

An impact assessment has been prepared in relation to these Regulations and is available from Professional Standards Team, Department of Health, 2N11, Quarry House, Leeds, LS2 7UE.