1986 No. 975

NATIONAL HEALTH SERVICE, ENGLAND AND WALES

The National Health Service (General Ophthalmic Services) Regulations 1986

The Secretary of State for Social Services, in exercise of powers conferred on him by sections 38, 39, 40, 50, 126(4), 127(a) and 128(1) of the National Health Service Act 1977 \(^1\) and section 28(1) of the Health and Social Security Act 1984 and of all other powers enabling him in that behalf, hereby makes the following regulations:—

Notes

1 section 38 was amended by section 1(3) of the Health and Social Security Act 1984 (c.48) and section 39 was amended by section 1(4) of, and paragraph 1 of Schedule 1 to, that Act and by paragraph 52 of Schedule 1 to the Health Services Act 1980 (c.53). Sections 38 and 39 were each modified by S.I. 1985/39, Article 7.

Extent

Preamble: England, Wales

1. Citation and commencement

These regulations may be cited as the National Health Service (General Ophthalmic Services) Regulations 1986 and shall come into operation on 1st July 1986.
2.— Interpretation

(1) In these regulations, unless the context otherwise requires—
   “the Act” means the National Health Service Act 1977;
   “the 1984 Act” means the Health and Social Security Act 1984;
   “[ “Abolition of the Tribunal Regulations” means the Abolition of the National Health Service
   Tribunal (Consequential Provisions) Regulations 2002; ]¹
   [...]²
   “[ “capital limit” means the amount prescribed for the purposes of section 22(6) of the Social
   Security Act 1986¹ as it applies to income support; ]³
   [...]¹
   “[ “child tax credit” means child tax credit under section 8 of the Tax Credits Act 2002; ]²
   “contractor” means a person who has undertaken to provide general ophthalmic services
   and whose name is included in the ophthalmic list;
   “[ “complex appliance” means an optical appliance at least one lens of which—
     (i) has a power in any one meridian of plus or minus 10 or more dioptres, or
     (ii) [...]⁶
     [ (iii) is a prism-controlled bifocal lens; ]⁷
   ]⁵
   “[ “corporate optician” means a body corporate registered in the register of bodies corporate
   maintained under section 9 of the Opticians Act 1989, which is carrying on business as an
   optometrist; ]⁸
[“corresponding decision” means a decision of the Tribunal in England, Scotland and Northern Ireland to impose a local or national disqualification on an ophthalmic medical practitioner or optician;] ¹
[“day centre” means an establishment attended by patients who would have difficulty in obtaining general ophthalmic services from practice premises because of physical or mental illness or disability or because of difficulties in communicating their health needs unaided;] ⁹
[“deputy” (“dirpwy”) means an ophthalmic medical practitioner or an optician, who is included in an ophthalmic list or a supplementary list and assists in the provision of general ophthalmic services;] ¹⁰
[“director” means—
(a) a director of a body corporate; or
(b) a member of the body of persons controlling a body corporate (whether or not a limited liability partnership);
] ¹¹
[“disability element” means the disability element of working tax credit as specified in section 11(3) of the Tax Credits Act 2002;] ²
[…]\²
“doctor” means a registered medical practitioner;
[“eligible person” means a person who, in accordance with regulation 13, may have his sight tested under general ophthalmic services;
[“employment” means any employment whether paid or unpaid and whether under a contract of service, and “employed” and “employer” shall be construed accordingly;
[“equivalent body” (“corff cyfatebol”) means—
(a) a Primary Care Trust in England;
(b) a Health Board or NHS Trust in Scotland;
(c) a Health and Social Services Board in Northern Ireland; or
(d) in relation to any time prior to 1 April 2003, a Health Authority in Wales; or
(e) in relation to any time prior to 1 October 2002, a Health Authority in England;
] ¹⁰
“equivalent lists” means lists kept by an equivalent body;
“FHSAA” means the Family Health Services Appeal Authority constituted under section 49S of the Act¹²;
“fraud case” means a case where a person satisfies the second condition for removal from the ophthalmic list, set out in section 49F(3) of the Act, or by virtue of section 49H of the Act is treated as doing so;] ¹¹
[…]\¹³
“general ophthalmic services” means the services which a contractor must provide pursuant to paragraph 10 of the terms of service;
[“gross annual income” means income that is calculated for a tax year for the purposes of Part I of the Tax Credits Act 2002 in accordance with regulations made under section 7 of that Act;] ³
[“an income-based jobseeker’s allowance” has the meaning given to it by section 1(4) of the Jobseekers Act 1995;] ¹⁴
[“income-related employment and support allowance” means an employment and support allowance, entitlement to which is based on section 1(2)(b) of the Welfare Reform Act 2007 (income-related employment and support allowance).] ¹⁵
“income support” means income support under Part II of the Social Security Act 1986 and includes personal expenses addition, special transition addition and transitional addition as defined in regulation 2(1) of the Income Support (Transitional) Regulations 1987;  

“licensing or regulatory body” ("corff trwyddedu neu reoleiddio") means—
(a) a body that licenses or regulates any profession of which the ophthalmic medical practitioner or optician is or has been a member, including a body regulating or licensing the education, training or qualifications of that profession; and
(b) includes any body which licenses or regulates any such profession, its education or qualifications, outside the United Kingdom;

“list” means—
(a) a list referred to in section 49N(1)(a) to (c) of the Act;
(b) a list of persons undertaking to provide general medical services prepared in accordance with regulations under section 29 of that Act as the list existed on or before 31st March 2004; or
(c) a list of persons approved by a Local Health Board for the purpose of assisting in the provision of general medical services prepared in accordance with regulations under section 43D(i) of that Act as the list existed on or before 31st March 2004;

“Local Health Board” has the meaning assigned to it by section 16BA of the Act;  

“locality” means the locality for which a [Health Authority] is established;

“Medical Supplementary List” means a list prepared by a Health Authority in accordance with section 43D of the Act, of doctors approved by the Health Authority for the purposes of assisting in the provision of General Medical Services;

“mobile practice” (“practis symudol”) means a contractor who—
(a) has made arrangements with the Local Health Board to provide mobile services; and
(b) does not have premises in the locality;

“mobile services” (“gwasanaethau symudol”) means general ophthalmic services provided at—
(a) a day centre;
(b) a residential centre; or
(c) the patient’s home, where the patient is unable to leave it unaccompanied because of physical or mental illness or disability, which a contractor has made arrangements with a Local Health Board to provide in its locality;

“a national disqualification” means—
(a) a decision made by the [First-tier Tribunal] in relation to an ophthalmic medical practitioner or optician under section 49N of the Act or under regulations corresponding to that section made under section 28X(4) of the Act (persons performing primary medical and dental services);  
(b) a decision under provisions in force in Scotland or Northern Ireland corresponding to section 49N of the Act,
(c) a decision by the Tribunal which is treated as a national disqualification by the FHSAA by virtue of regulation 6(4) of the Abolition of the Tribunal Regulations,  
(d) a decision by the Tribunal”;
[ “the NCAA” means the National Clinical Assessment Authority; ]
[ “the NHS Business Services Authority” means the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) established by the NHS Business Services Authority (Awdurdod Gwasanaethau Busnes y GIG) (Establishment and Constitution) Order 2005; ]
[ “the NHS Counter Fraud Security and Management Service” (“Gwasanaeth Gwrth Dwyll a Rheoli Diogelwch y Gwasanaeth Iechyd Gwladol”) means the service with responsibility for policy and operational matters relating to the prevention, detection and investigation of fraud or corruption and the management of security in the National Health Service, established by the Counter Fraud and Security Management Service Establishment and Constitution Order 2002 [ , which was replaced on 1st April 2006 by the NHS Business Services Authority ]
[ “notice” (“hysbysiad”) means a notice in writing (including electronic) and “notify”is to be construed accordingly; ]
[ …] 1
[ “notice of entitlement” means a notice issued under [regulation 7 or 7A] of the Remission Regulations for the purposes of remission of charges under the Act; ]
[ “ophthalmic hospital”includes an ophthalmic department of a hospital; ]
[ “ophthalmic list” (“rhestr offhalmig”) means the list prepared by a Local Health Board under regulation 6; ]
[ “ophthalmic medical practitioner” means a doctor whose qualifications have in accordance with regulation 4 or regulation 5 been approved as being prescribed qualifications; “Ophthalmic Qualifications Committee” means such committee appointed by organisations representative of the medical profession as may be recognised by the Secretary of State for the purposes of approving—

(a) ophthalmic hospitals, academic degrees, academic or post graduate courses in ophthalmology and appointments affording special opportunities for acquiring the necessary skill and experience of the kind required for the provision of general ophthalmic services; and

(b) the qualifications of doctors for the purpose of the general ophthalmic services;

[ “optician” means a person registered in the register of optometrists maintained under section 7 (register of opticians) of the Opticians Act 1989[ or in the register of visiting optometrists from relevant European States maintained under section 8B(1)(a) of that Act, ]

[ “originating events” means the events that gave rise to the conviction, investigation, proceedings, suspension, refusal to admit, conditional inclusion, removal or contingent removal that took place; ]

[ “patient” means a person for whom a contractor has agreed to provide general ophthalmic services;

[ “pension credit guarantee credit” is to be construed in accordance with sections 1 and 2 of the State Pension Credit Act 2002; ]

[ “professional conduct” includes matters relating both to professional conduct and professional performance;

“professional registration number” means the number against the ophthalmic medical practitioner's or optician's name in the register maintained by the General Medical Council or the General Optical Council; ]

“qualifications” includes qualifications as to experience;
“the register” (“y gofrestr”), except where the context otherwise requires, means, in relation to an ophthalmic medical practitioner, a register maintained by the General Medical Council, or in relation to an optician, a register or list maintained by the General Optical Council;  

“the Remission Regulations” means the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988 and a reference to those Regulations is to be construed as a reference to them as they have effect on the making of the National Health Service (General Ophthalmic Services) Amendment Regulations 1989 and as amended subsequently;  

“residential centre” means an establishment for patients who normally reside in that establishment and who are unable to leave the establishment unaccompanied because of physical or mental illness or disability;  

“severe disability element” means the severe disability element of working tax credit specified in section 11(6)(d) of the Tax Credits Act 2002;  

“sight test form” means a form which, in accordance with the Statement, is to be completed for the purposes of payments in respect of a sight test;  

“the Statement” has the meaning assigned to it in regulation 10(1);  

“supplementary list” ("rhestr atodol") means the list prepared by the Local Health Board under regulation 3 of the Supplementary List Regulations;  

“Supplementary List Regulations” ("Rheoliadau Rhestr Atodol") means the National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services)(Amendment and Consequential Amendment) (Wales) Regulations 2006;  

“suspended” (“atal dros dro”) means suspended—  

(a) in relation to England and Wales, by a Local Health Board or equivalent body under section 49I or 49J of the Act or under Regulations made under—  

(i) sections 28DA or 43D of the Act, or  

(ii) section 8ZA of the National Health Service (Primary Care) Act 1997, including these Regulations;  

(b) in relation to Scotland or Northern Ireland, under provision in force corresponding to those in or made under sections 28DA, 43D, 49I or 49J of the Act or under section 8ZA of the National Health Service (Primary Care) Act 1997, and will be treated as including a case where a person is treated as suspended by a Local Health Board or, prior to 1 April 2003, by a Health Authority, by virtue of regulation 6(2) of the Abolition of the Tribunal (Wales) Regulations, or in England, by a Primary Care Trust, or prior to 1 October 2002, by a Health Authority by virtue of regulation 6(2) of the Abolition of the Tribunal Regulations, and “suspends” and “suspension” will be construed accordingly;  

“terms of service” means the terms set out in Schedule 1;  

“the Tribunal” means the Tribunal constituted under section 46 of the Act for England and Wales;  

“working tax credit” means working tax credit under section 10 of the Tax Credits Act 2002;  

(1A) In the application of these Regulations in relation to Wales—  

“Health Authority” shall, in each place where these words occur, have effect as if there were substituted the words “Local Health Board”.
(2) Unless the context otherwise requires, a reference in these regulations to a numbered regulation or Schedule is to the regulation in or Schedule to these regulations which bears that number, a reference in a regulation to a numbered paragraph is to the paragraph bearing that number in that regulation and a reference in a paragraph of Schedule 1 to a numbered sub-paragraph is to the sub-paragraph bearing that number in that paragraph.

[(3) In respect of paragraph (1) of this regulation and regulation 13 the amendments made by the National Health Service (Optical Charges and Payments) and (General Ophthalmic Services) Regulations 1999\(^{32}\)\(^{33}\) and the National Health Service (General Ophthalmic Services) (Amendment) Regulations 1999\(^{32}\)\(^{33}\) shall also have effect in Wales.]\(^{31}\)

[(4) In these Regulations any reference to “he” or “she”, “him” or “her” or “his” or “her”, when referring to an optician includes a reference to a corporate optician. ]\(^{10}\)

Notes

1. Amended by National Health Service (General Ophthalmic Services) (Amendment) (Wales) Regulations 2002/1883 reg.2(1) (August 26, 2002)
2. Amended by National Health Service (Optical Charges and Payments) and (General Ophthalmic Services) (Amendment) (Wales) Regulations 2003/955 reg.8 (April 6, 2003)
3. Added by National Health Service (General Ophthalmic Services) Amendment Regulations 1989/395 reg.2(a) (April 1, 1989)
4. 1986 c.50; regulation 45 of the Income Support (General) Regulations 1987 (S.I. 1987/1967) has prescribed the amount of £6,000 as the capital limit.
5. Added by National Health Service (General Ophthalmic Services) Amendment Regulations 1989/395 reg.2(b) (April 1, 1989)
6. Revoked by National Health Service (Optical Charges and Payments) (Miscellaneous Amendments) Regulations 1992/404 reg.5 (April 1, 1992)
7. Added by National Health Service (Optical Charges and Payments) (Miscellaneous Amendments) Regulations 1991/583 reg.9(b) (April 1, 1991)
8. Amended by National Health Service (General Ophthalmic Services) (Amendment) (Wales) Regulations 2007/122 reg.2(2) (January 25, 2007)
9. Amended by National Health Service (Optical Charges and Payments) and (General Ophthalmic Services) (Amendment) (No.2) (Wales) Regulations 2001/1423 reg.7 (May 1, 2001)
10. Amended by National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006/181 Pt 2 reg.23 (February 1, 2006)
11. Added by National Health Service (General Ophthalmic Services) Amendment Regulations 1989/395 reg.2(c) (April 1, 1989)
12. Section 49S was inserted by the Health and Social Care Act 2001 (c. 15), section 27(1).
13. Definition substituted by National Health Service (Optical Charges and Payments) and (General Ophthalmic Services) (Amendment) Regulations 1999/2562 reg.3(1)(c) (October 5, 1999)
14. Definition inserted by National Health Service (General Ophthalmic Services) Amendment (No.2) Regulations 1996/2320 reg.2 (October 7, 1996)
15. Definition inserted by National Health Service (General Ophthalmic Services) and (Optical Charges and Payments) (Amendment) (Wales) Regulations 2008/2552 reg.2(2) (October 27, 2008)
17. Definition substituted by General Medical Services Transitional and Consequential Provisions (Wales) (No. 2) Order 2004/1016 Sch.1 para.4(2) (April 1, 2004)
Amended by National Health Service (Optical Charges and Payments) and (General Ophthalmic Services) (Amendment) (Wales) Regulations 2004/1014 reg.7 (April 6, 2004)

Section 16BA was inserted into the National Health Service Act 1977 (c.49) by the National Health Service Reform and Health Care Professions Act 2002 (c.17), section 6.

Words substituted by National Health Service (General Ophthalmic Services) (Amendment) (Wales) Regulations 2002/1883 reg.2(2) (August 26, 2002)

Word substituted by Transfer of Tribunal Functions Order 2010/22 Sch.3 para.2 (January 18, 2010)

Words inserted by National Health Service (Performers Lists) (Wales) (Amendment) Regulations 2006/945 reg.12(3) (April 1, 2006)

Definition inserted by Special Health Authorities Abolition Order 2006/635 Sch.2 para.1(2)(b) (April 1, 2006)

Words inserted by Special Health Authorities Abolition Order 2006/635 Sch.2 para.1(2)(a) (April 1, 2006)

Added by National Health Service (General Ophthalmic Services) Amendment Regulations 1989/395 reg.2(d) (April 1, 1989)

Words inserted by European Qualifications (Health and Social Care Professions) Regulations 2007/3101 Pt 13 reg.194 (December 3, 2007)

Revoked by National Health Service (General Ophthalmic Services) Amendment Regulations 1989/395 reg.2(f) (April 1, 1989)

Added by National Health Service (General Ophthalmic Services) Amendment Regulations 1989/395 reg.2(e) (April 1, 1989)


Section 46 was substituted by the Health Act 1999 c.8.

Added by National Health Service (Optical Charges and Payments) and (General Ophthalmic Services) Amendment (Wales) Regulations 1999/2841 reg.3 (October 5, 1999)

S.I. 1999/2714

S.I. 1999/2562.

Notes

Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)

Commencement

reg. 2(1)-(2): July 1, 1986

Extent

reg. 2(1)-(4): England, Wales

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
3.— **Qualifications of ophthalmic medical practitioners**

(1) The prescribed qualifications which a doctor is to possess for the purposes of section 38 of the Act (general ophthalmic services) are that he has (at the date of consideration of his application under regulation 4) recent experience and that—

(a) he has had adequate experience and has held—

(i) an appointment in the health service, otherwise than under Part II of the Act or Part IV of the National Health Service Act 1946, with the status of consultant ophthalmologist, or

(ii) an appointment for a period of not less than two years of equivalent status as ophthalmic surgeon or assistant ophthalmic surgeon on the staff of an approved ophthalmic hospital; or

(b) (i) he has held one or more ophthalmic appointments in an approved ophthalmic hospital for a period totalling not less than two years,

(ii) unless he has been fully registered as a doctor for at least seven years and his experience is such as to make this requirement unnecessary, that period included tenure for at least six months of a residential appointment or an appointment with duties comparable with those of a residential appointment,

(iii) he has obtained [the Membership of the Royal College of Ophthalmologists]¹, or any approved higher degree or qualification, and

(iv) he has had adequate experience [..]²

(c) […]¹

(2) In this regulation “approved” means approved by the Ophthalmic Qualifications Committee.

**Notes**

¹ Words substituted by National Health Service (General Ophthalmic Services) (Amendment) Regulations 1999/693 reg.2(a) (April 1, 1999)

² Revoked by National Health Service (General Ophthalmic Services) (Amendment) Regulations 1999/693 reg.2(b) (April 1, 1999)

[...]¹

**Notes**

¹ Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)
4.— Approval of qualifications of ophthalmic medical practitioners

(1) A doctor who wishes to establish his status as an ophthalmic medical practitioner shall apply to the Ophthalmic Qualifications Committee for approval of his qualifications and shall give to it such particulars of his qualifications as it shall require.

(2) The Ophthalmic Qualifications Committee shall consider and determine the doctor's application and within two months after the date of the application shall inform him of the Committee's determination.

(3) If the Ophthalmic Qualifications Committee is satisfied that the doctor possesses the qualifications prescribed by regulation 3, he shall be an ophthalmic medical practitioner.

(4) Notwithstanding the provisions of regulation 3 and of paragraph (1), a doctor who has the prescribed qualifications for the purposes of providing general ophthalmic services in Scotland under the National Health Service (Scotland) Act 1978, or in Northern Ireland under the Health and Personal Social Services (Northern Ireland) Order 1972\(^1\), shall be an ophthalmic medical practitioner.

Notes

\(^1\) S. I. 1972/1265 (N.I. 14).
5.— Appeals from Ophthalmic Qualifications Committee

(1) Any person dissatisfied with a determination of the Ophthalmic Qualifications Committee that he is not qualified to be an ophthalmic medical practitioner may within one month from the date on which he received notice of that determination, or such longer period as the Secretary of State may at any time allow, appeal against the determination by sending to the Secretary of State a notice of appeal stating the facts and contentions on which he relies.

(2) The Secretary of State shall—
   (a) appoint to determine the appeal an appeal committee of five persons of whom at least three shall be appointed after consultation with such bodies or organisations representing doctors as appear to him to be concerned;
   (b) refer the appeal to that appeal committee;
   (c) send a copy of the notice of appeal to the Ophthalmic Qualifications Committee and to such other persons as may appear to him to be interested in the appeal; and
   (d) inform the appellant, the Ophthalmic Qualifications Committee and any such other persons that the appeal has been referred to an appeal committee and of the address to which communications to the appeal committee shall be sent.

(3) The appeal committee may, and if requested to do so by the appellant or the Ophthalmic Qualifications Committee shall, hold a hearing in connection with an appeal at such time and place as they may direct; notice of the hearing shall, not less than 14 days before the date of the hearing, be sent by the recorded delivery service to the appellant, the Ophthalmic Qualifications Committee, and any other person to whom the Secretary of State has under paragraph (2) sent notice of the appeal.

(4) Either the appellant or the Ophthalmic Qualifications Committee may within one month of being informed that the appeal has been referred to an appeal committee, or of being informed that a hearing of the appeal will be held, give notice of a wish to appear before the appeal committee.

(5) The Ophthalmic Qualifications Committee shall be entitled to appear by a member or by their clerk or other officer duly appointed for the purpose; the appellant shall be entitled to appear in person, by any member of his family, by any friend, or by any officer or member of any organisation...
of which he is a member; and any party to an appeal shall be entitled to appear and be heard by counsel or solicitor.

(6) Subject to the preceding provisions of this regulation, the procedure of the appeal committee in determining the appeal shall be such as it thinks proper.

(7) An appeal committee shall have all the powers of the Ophthalmic Qualifications Committee, including in particular the power of approval, and if satisfied that an appellant possesses the qualifications prescribed by regulation 3 it shall so determine and accordingly he shall be an ophthalmic medical practitioner.

(8) The appeal committee shall as soon as practicable notify its determination to the appellant, the Ophthalmic Qualifications Committee, the Secretary of State and any other person to whom the Secretary of State has under paragraph (2) sent notice of the appeal.

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[...]¹

Notes

¹ Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)

Commencement

reg. 5(1)-(8): July 1, 1986

Extent

reg. 5(1)-(8): England, Wales

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6.— Ophthalmic list

(1) The [Health Authority]¹ shall keep [ and publish]² a list called “the ophthalmic list” of those persons who, pursuant to the provisions of regulation 7, have undertaken to provide general ophthalmic services [ in its area and who are not disqualified for inclusion by virtue of the provisions of sections 47(1), 48(b), 49A(3), 49B(1) or 49D(2) of the Act]³.
(2) The ophthalmic list shall be divided into two parts, of which the first part shall relate to ophthalmic medical practitioners and the second part to opticians.

(3) Each part shall contain—

(a) the names of persons who are entitled to be included in it [and in relation to each person—] ²

[i] the person’s professional registration number with—

(aa) suffixed to that number, the organisational code given by the National Assembly for Wales to the Local Health Board, and

(bb) prefixed to that number, the initials OL,

(ii) in the case of an individual, where consent is given, that person’s date of birth or where consent is not given or in the case of a corporate optician, the date of that it’s first registration in the register, and

(iii) the date that the person’s name was included in the ophthalmic list;

[b] except in the case of a mobile practice, the addresses of any places in the Local Health Board’s locality at which they have undertaken to provide general ophthalmic services, other than mobile services;

(c) particulars of the days on which and hours between which general ophthalmic services will normally be available at those addresses […]²;

(d) the names of every other ophthalmic medical practitioner or optician who is regularly engaged as a deputy, director or employee [in assisting]² in the provision of general ophthalmic services at any of those addresses [or in the provision of mobile services];

(e) if the contractor has made arrangements with the Local Health Board to provide mobile services—

[i] that fact,

(ii) the addresses of any day or residential centres visited regularly, with particulars of the months in which visits are planned to take place and the planned interval between such visits, and

(iii) if that contractor is a mobile practice, that fact and the addresses to which correspondence in connection with such provision may be sent.

(4) The [Health Authority]¹ shall send a copy of the ophthalmic list to the Local Medical [Health Authority]¹ and the Local Optical [Health Authority]¹, and at intervals of not more than three months shall notify each of them of any alteration made in that list.

Notes

¹ Words substituted by National Health Service (General Ophthalmic Services) (Amendment) (Wales) Regulations 2002/1883 reg.2(2) (August 26, 2002)
² Amended by National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006/181 Pt 2 reg.24 (February 1, 2006)
³ Words inserted by National Health Service (General Ophthalmic Services) Amendment Regulations 1996/705 reg.3 (April 1, 1996)
7.— Application for inclusion in ophthalmic list and notification

(1) An ophthalmic medical practitioner or optician who wishes to be included in the ophthalmic list of a Committee shall send to that Committee an application to that effect which shall indicate whether the applicant is an ophthalmic medical practitioner, a registered ophthalmic optician or a [corporate optician]¹ and shall include—

(a) an undertaking to provide general ophthalmic services and to comply with the terms of service; […]²

[ (aa) if the applicant wishes to provide mobile services, a statement to that effect, with an undertaking to provide mobile services and to comply with the terms of service relevant to the provision of mobile services; ]¹

(b) the information, as respects the matters mentioned in regulation 6(3), which it is proposed shall be contained in the ophthalmic list [ ; and ]³

[ (c) the information and undertakings set out in Schedule 1A. ]⁴

(1A) In the case of an application to a Local Health Board by an ophthalmic medical practitioner or optician who is included in the supplementary list of that Local Health Board, seeking to withdraw from that list and to include his or her name in its ophthalmic list, he or she will only be required to provide any information and undertakings required by paragraph (1) and Schedule 1A insofar as—

(a) he or she has not already supplied it to that Local Health Board; or

(b) it has changed since it was provided.

(1B) Before making a decision on the application of the ophthalmic medical practitioner or optician, the Local Health Board must—
(a) check, as far as reasonably practicable, the information provided by the ophthalmic medical practitioner or optician, in particular that provided under Schedule 1A, and must ensure that it has sight of relevant documents;
(b) check with [the NHS Business Services Authority]\(^5\) whether the applicant has any record of fraud;
(c) check with the National Assembly for Wales as to any information held by it as to any record about past or current investigations or proceedings involving or relating to the ophthalmic medical practitioner or optician; and
(d) take up the references provided by the ophthalmic medical practitioner or optician under paragraph 9 of Schedule 1A.

(1C) When the Local Health Board has decided whether or not to include the applicant ophthalmic medical practitioner or optician in its list, it must notify him or her within 7 days of that decision of—

(a) that decision; and
(b) if the Local Health Board has decided not to include the ophthalmic medical practitioner or optician, the reasons for it (including any facts relied upon) and of any right of appeal under regulation 7C against that decision.

(2) A contractor shall within 14 days of any change or addition affecting the entries which the ophthalmic list is required to contain in relation to him notify the Committee accordingly.

Notes

1 Amended by National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006/181 Pt 2 reg.25 (February 1, 2006)
2 Word repealed by National Health Service (General Ophthalmic Services) Amendment Regulations 1996/705 reg.4(a) (April 1, 1996)
3 Added by National Health Service (General Ophthalmic Services) Amendment Regulations 1996/705 reg.4(b) (April 1, 1996)
4 Added by National Health Service (General Ophthalmic Services) (Amendment) (Wales) Regulations 2002/1883 reg.3 (August 26, 2002)
5 Words substituted by Special Health Authorities Abolition Order 2006/635 Sch.2 para.1(4)(a) (April 1, 2006)

[...]\(^1\)

Notes

1 Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)

Commencement

reg. 7(1)-(2): July 1, 1986
[7A.— Grounds for refusal](#)

(1) The grounds on which a Health Authority may refuse to include an ophthalmic medical practitioner or optician [in its list or to list him or her as providing mobile services] under regulation 7 are—

(a) that the Health Authority has considered the information provided under [Schedule 1A] and any other information in its possession in relation to this application and considers the ophthalmic medical practitioner or optician is unsuitable to be included in the list;

(b) that having checked the information provided by the ophthalmic medical practitioner or optician in [Schedule 1A], the Health Authority is not satisfied with the information;

(c) that having contacted referees, in accordance with paragraph 9 of that Schedule the Health Authority is not satisfied with the information provided by the referees;

(d) that having checked with the NHS Counter Fraud and Security Management Service [or the NHS Business Services Authority] for any facts that it considers relevant relating to past or current fraud investigations involving or relating to the ophthalmic medical practitioner or optician and, having considered these and any other facts in its possession relating to fraud involving or relating to him or her, the Local Health Board considers these justify such refusal;

(e) that there are any grounds for the Health Authority to consider that admitting the ophthalmic medical practitioner or optician to the list would be prejudicial to the efficiency of the service which the ophthalmic medical practitioner or optician would undertake [; or]

(f) that, having checked with the National Assembly for Wales for any facts that it considers relevant relating to past or current investigations or proceedings involving or relating to the ophthalmic medical practitioner or optician and, having considered these and any other facts in its possession involving or relating to him or her, the Local Health Board considers these justify such refusal.

(2) The grounds on which a Health Authority must refuse to include an ophthalmic medical practitioner or optician are—

(a) where the ophthalmic medical practitioner or optician has been convicted in the United Kingdom of murder;
(b) where, after 30th July 2002, the ophthalmic medical practitioner or optician has been convicted in the United Kingdom of a criminal offence and sentenced to a term of imprisonment of over six months;
(c) where the ophthalmic medical practitioner or optician is the subject of a national disqualification;
(d) where the ophthalmic medical practitioner or optician has not updated his or her application in accordance with regulation 7B(4);
(e) where the ophthalmic medical practitioner or optician does not notify the Health Authority under regulation 7D(11) that the ophthalmic medical practitioner or optician wishes to be included in the list subject to the specified conditions [ ; ]
(f) where he or she has not provided satisfactory evidence of his or her intention to provide general ophthalmic services in its locality;
(g) except in the case of a corporate optician, where it is not satisfied that he or she has the knowledge of English which, in his or her own interests of those of his or her patients, is necessary for the provision of general ophthalmic services in its locality; or
(h) where the ophthalmic medical practitioner or optician has had his or her name in the supplementary list of any Local Health Board.

(3) Where the Health Authority is considering refusal of an ophthalmic medical practitioner or optician under paragraph (1), it shall consider all facts which appear to it to be relevant and shall in particular take into consideration in relation to paragraph (1)(a), (b) and (d) above—
(a) the nature of any offence, investigation or incident;
(b) the length of time since any such offence, incident, conviction or investigation;
(c) whether there are other offences, incidents or investigations to be considered;
(d) any action or penalty imposed by any licensing, regulatory or other body, the police or the courts as a result of any such offence, incident or investigation;
(e) the relevance of any offence, investigation or incident to the provision by the ophthalmic medical practitioner or optician of general ophthalmic services and any likely risk to his or her patients or public finances;
(f) whether any offence was a sexual offence to which Part I of the Sexual Offences Act 1997 applies [ or, if it had been committed in England and Wales, would have applied ]
(g) whether the ophthalmic medical practitioner or optician has been refused admittance to or conditionally included in, removed, contingently removed or is currently suspended from any of a Health Authority's lists or from equivalent lists, and if so, the facts relating to the matter which led to such action and the reasons given by the Health Authority or equivalent body for such action; [...] 
(h) whether the ophthalmic medical practitioner or optician was, has in the preceding six months been, or was at the time of the originating events, a director of a body corporate which refused admittance to, conditionally included in, removed or contingently removed from other Health Authority lists or equivalent lists, or is currently suspended from such lists, and if so, the facts relating to the matter which led to such actions and the reasons given by the Health authority or equivalent body for such action [...] 
(i) whether he or she is at the time, has in the preceding six months been, or was at the time of the originating events, a director of a body corporate which is currently suspended from such a list, and if so, the reasons relating to the matter which led to the suspension and the reasons given by the Local Health Board or equivalent body for the suspension;
(j) where it is a corporate optician, whether any of its directors, or anyone who has in the preceding six months been one of its directors, was refused admittance to, conditionally included in, removed or contingently removed from or suspended from any list or equivalent list, and if so, the facts relating to the matter which led to such action and the reasons given by the Local Health Board or equivalent body for such action. ] ²

(4) When the Health Authority takes into consideration the matters set out in paragraph (3), it shall consider the overall effect of all the matters being considered.

(5) [...] ²

Notes

1 Added by National Health Service (General Ophthalmic Services) (Amendment) (Wales) Regulations 2002/1883 reg.4 (August 26, 2002)

2 Amended by National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006/181 Pt 2 reg.26 (February 1, 2006)

3 Words inserted by Special Health Authorities Abolition Order 2006/635 Sch.2 para.1(3)(a) (April 1, 2006)

Extent

reg. 7A(1)-(5): England, Wales
[7B.— Deferment of decision]

(1) A Health Authority may defer consideration of a decision on an application by an ophthalmic medical practitioner or optician to be included in the ophthalmic list—

(a) where there are in respect of him or her—
   (i) criminal proceedings in the United Kingdom, or
   (ii) proceedings elsewhere in the world relating to conduct, which if it had occurred in the United Kingdom, would constitute a criminal offence, which, if they resulted in a conviction, or the equivalent of a conviction, would be likely to lead to the removal of the ophthalmic medical practitioner or optician from its ophthalmic list, if he or she were to be included in it;

(b) where there are, in respect of a body corporate of which he or she is, has in the preceding six months been, or was at the time of the originating events, a director—
   (i) criminal proceedings in the United Kingdom, or
   (ii) proceedings elsewhere in the world relating to conduct, which if it had occurred in the United Kingdom, would constitute a criminal offence, which if they resulted in a conviction, or the equivalent of a conviction, would be likely to lead to the removal of the ophthalmic medical practitioner or optician from its ophthalmic list, if he or she were to be included in it;

(bb) in the case of a corporate optician, where there are in respect of any of its directors—
   (i) criminal proceedings in the United Kingdom, or
   (ii) proceedings elsewhere in the world relating to conduct, which if it had occurred in the United Kingdom, would constitute a criminal offence, which if they resulted in a conviction, or the equivalent of a conviction, would be likely to lead to that body's removal from its ophthalmic list, if it were to be included in it;

(c) where there is an investigation anywhere in the world by the ophthalmic medical practitioner's or optician's licensing or regulatory body or any other investigation (including one by another Health Authority or equivalent body) relating to the ophthalmic medical practitioner or optician in his or her professional capacity that if adverse would be likely to lead to the removal of the ophthalmic medical practitioner or optician from the Health Authority list if the ophthalmic medical practitioner or optician were to be included;

(d) where the ophthalmic medical practitioner or optician is suspended from any of the lists or equivalent lists;

(e) where a body corporate of which the ophthalmic medical practitioner or optician is, has in the preceding six months been, or was at the time of the originating events a director, is suspended from any of the lists or equivalent lists;

(f) where the [First-tier Tribunal] is considering an appeal by the ophthalmic medical practitioner or optician against a decision of a Health Authority to refuse to admit to its list the said ophthalmic medical practitioner or optician, or to conditionally include in or to contingently remove from, or to remove the said medical ophthalmic practitioner or optician from any list kept by a Health Authority, and if that appeal is unsuccessful the Health Authority would be likely to remove the said ophthalmic medical practitioner or optician.
from the Health Authority list if the said ophthalmic medical practitioner or optician had been included the list;

(g) where the [First-tier Tribunal] is considering an appeal by a body corporate of which the ophthalmic medical practitioner or optician is, has in the preceding six months been, or was at the time of the originating events a director, against a decision of a Health Authority to refuse to admit the body corporate to its list, or to conditionally include in or to contingently remove from, or to remove from any list kept by a Health Authority or equivalent body, and if that appeal is unsuccessful the Health Authority would be likely to remove the ophthalmic medical practitioner or optician from the Health Authority list if the said ophthalmic medical practitioner or optician had been included in the list;

(h) where the ophthalmic medical practitioner or optician is being investigated by [the NHS Business Services Authority] in relation to any fraud, and the result, if adverse, would be likely to lead to his or her removal from the Local Health Board's ophthalmic list, if he or she were to be included in it;

(i) where a body corporate, of which the ophthalmic medical practitioner or optician is, has in the preceding six months been, or was at the time of the originating events a director, is being investigated in relation to any fraud, where the result if adverse would be likely to lead to the removal of the ophthalmic medical practitioner or optician from the Health Authority list if the ophthalmic medical practitioner or optician had been included;

(j) where the [First-tier Tribunal] is considering an application from a Health Authority for a national disqualification of the ophthalmic medical practitioner or optician;

(k) where the [First-tier Tribunal] is considering an application from a Health Authority for a national disqualification of a body corporate of which the ophthalmic medical practitioner or optician is, has in the preceding six months been, or was at the time of the originating events a director.

(2) A Health Authority may only defer consideration under paragraph (1) above until the outcome of the relevant event mentioned in sub-paragraphs (a); (b); (c); (f); (g); (h); (j) or (k) is known or whilst the ophthalmic medical practitioner or optician or body corporate is suspended under sub-paragraph (d) or (e).

(3) A Health Authority must notify the ophthalmic medical practitioner or optician of a decision to defer a decision on an application and the reasons for this.

(4) Once the outcome of the relevant event mentioned in sub-paragraphs (a); (b); (c); (f); (g); (h); (i); (j) or (k) of paragraph (1) is known or the suspension referred to in sub-paragraphs (d) or (e) has come to an end, the Health Authority shall notify the ophthalmic medical practitioner or optician in writing that the ophthalmic medical practitioner or optician must:

(a) update his or her application within 28 days of the date of the notification (or such longer period as the Health Authority may agree);

(b) confirm in writing within the period mentioned in sub-paragraph (a) that the ophthalmic medical practitioner or optician wishes to proceed with the application.

(5) Provided any additional information has been received within the 28 days or the time agreed, the Health Authority shall notify the ophthalmic medical practitioner or optician as soon as possible—

(a) that the ophthalmic medical practitioner's or optician's application has been successful; or
(b) that the Health Authority has decided to refuse the application or impose conditions on
the inclusion of the ophthalmic medical practitioner or optician, and the reasons for it
(including any facts relied on), and of any right of appeal under regulation 7C.

Notes
1 Added by National Health Service (General Ophthalmic Services) (Amendment) (Wales) Regulations 2002/1883 reg.4 (August 26, 2002)
2 Amended by National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006/181 Pt 2 reg.27 (February 1, 2006)
3 Word substituted by Transfer of Tribunal Functions Order 2010/22 Sch.3 para.3 (January 18, 2010)
4 Words substituted by Special Health Authorities Abolition Order 2006/635 Sch.2 para.1(4)(b) (April 1, 2006)

Extent
reg. 7B(1)-(5)(b): England, Wales

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:

England | Wales

Partially In Force

England

[...]

Notes
1 Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)

Wales

[ 7C.— Appeal to the [First-tier Tribunal] ]

(1) [Except in a case to which regulation 7A(2) (mandatory grounds of refusal) applies, an ]
ophthalmic medical practitioner or optician may appeal to the [First-tier Tribunal] against a
decision of a Health Authority to refuse to include the ophthalmic medical practitioner or optician
in the ophthalmic list pursuant to regulation 7.

(2) Such appeal shall be by way of redetermination.

1
[7D.—  Conditional Inclusion]

(1) A Health Authority may determine that if a person is to be included in the list, the ophthalmic medical practitioner or optician is to be subject, while the ophthalmic medical practitioner or optician remains included in the list, to conditions imposed on the inclusion of the ophthalmic medical practitioner or optician, having regard to the requirements of section 43ZA(2) of the Act.

(2) A Health Authority may vary the terms of service as provided for in Schedule 1 to these Regulations in relation to the applicant for the purpose of, or in connection with, the imposition of those conditions.

(3) The Health Authority may of its own volition or at the request of the ophthalmic medical practitioner or optician concerned review any decision made under this regulation.

(4) An ophthalmic medical practitioner or optician may not request a review of a Health Authority decision until the expiry of a three month period beginning with the date the Health Authority includes the ophthalmic medical practitioner or optician in the list.
(5) After a review has taken place, the ophthalmic medical practitioner or optician cannot request another review before the expiry of six months from the date of the decision on the previous review.

(6) On such a review, the Health Authority may vary the conditions, impose different conditions or remove the ophthalmic medical practitioner or optician from the list.

(7) Failure to comply with a condition may lead to removal of the ophthalmic medical practitioner or optician from the list.

(8) There shall be an appeal to the [First-tier Tribunal] from any decision of the Health Authority—
   (a) to impose conditions, or any particular condition, on an ophthalmic medical practitioner or optician;
   (b) to vary a condition;
   (c) to vary terms of service of the ophthalmic medical practitioner or optician;
   (d) on any review of an earlier such decision of the Health Authority;
   (e) to remove the ophthalmic medical practitioner or optician from the list for breach of condition,
and the appeal shall be by way of redetermination of the Health Authority decision.

(9) On appeal the [First-tier Tribunal] may make any decision which the Health Authority could have made.

(10) Where the decision of the [First-tier Tribunal] on appeal is that conditions be imposed on the ophthalmic medical practitioner or optician, whether or not those conditions are identical with the conditions imposed by the Health Authority, the Health Authority shall ask the ophthalmic medical practitioner or optician to notify it within 28 days of the decision, (or such longer period as the Health Authority may agree) whether the ophthalmic medical practitioner or optician wishes to be included in the ophthalmic list subject to these conditions.

(11) If the ophthalmic medical practitioner or optician notifies the Health Authority that the ophthalmic medical practitioner or optician does wish to be included in the ophthalmic list subject to the conditions, the Health Authority shall so include the ophthalmic medical practitioner or optician.

(12) Any decision of the Health Authority that may be the subject of an appeal under paragraph (8) shall not have effect until the [First-tier Tribunal] has determined any appeal against it or any time for appeal has expired.

(13) A Health Authority shall disclose to those persons or bodies specified in paragraph (15) below, information of the kind mentioned in paragraph (14) about ophthalmic medical practitioners or opticians whose inclusion in the list is subject to conditions imposed under this regulation and about the removal of such persons from the list for breach of such a condition.

(14) The information referred to in paragraph (13) is—
   (a) identifying details of the ophthalmic medical practitioner or optician;
   (b) professional registration number;
   (bb) if the optician is a corporate optician, the names addresses and dates of birth of its directors, with the case of a director, who is a member of a profession regulated by a body for the time being mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002, that fact and his or her registration number with that body;
   (c) date and copy of the decision of the Health Authority;
(d) the contact name of a person in the Health Authority for further enquiries.

(15) Persons or bodies to whom information shall be disclosed under paragraph (13) are—

(a) the National Assembly for Wales;

(b) any Health Authority in Wales that has the ophthalmic medical practitioner or optician or a body corporate of which the ophthalmic medical practitioner or optician is a director, in any of its lists, or any Health Authority in Wales that is considering an application for inclusion in any of its lists from the ophthalmic medical practitioner or optician or a body corporate of which he or she is known to be a director;

(c) the Scottish Executive;

(d) the Secretary of State;

(e) the Northern Ireland Executive;

(f) the General Medical Council or the General Optical Council or any other appropriate regulatory body;

( ff) the NCAA;  

(g) any other organisation that, to the knowledge of the Health Authority, employs or uses the services of the ophthalmic medical practitioner or optician in a professional capacity;

(h) where it is a fraud case, the NHS Business Services Authority, and, in respect of a person or body falling within sub-paragraph (a), (b), (f) or (h) that notification must be given not more than 7 days after the Local Health Board makes the decision referred to in paragraph (1).

(16) The Health Authority shall notify any persons or bodies of the information specified in paragraph (14) if those persons or bodies can establish that it is considering employing the ophthalmic medical practitioner or optician and the Health Authority receives a written request (including an electronic request) to do so.

(17) The Health Authority shall send to the ophthalmic medical practitioner or optician concerned a copy of any information about the ophthalmic medical practitioner or optician provided to the persons or bodies referred to in paragraphs (15) and (16), and any correspondence with those persons or bodies relating to that information.

(18) Where the Health Authority has notified any of the persons or bodies mentioned in paragraph (15) or (16) of the matters set out in paragraph (14), it may in addition notify that person or body of any evidence that was considered, including representations of the ophthalmic medical practitioner or optician if so requested.

(19) Where a Health Authority is notified by the [First-tier Tribunal] that it has imposed a national disqualification on an ophthalmic medical practitioner or optician whom the Health Authority had removed from its ophthalmic list, it shall notify the persons or bodies listed in paragraph (15)(b), (g) and (h) and paragraph (16).

(20) Where a decision is changed on review or appeal, or a suspension lapses, the Health Authority shall notify any person or body that was notified of the original decision of the later decision.

Notes

1 Added by National Health Service (General Ophthalmic Services) (Amendment) (Wales) Regulations 2002/1883 reg.4 (August 26, 2002)

2 Word substituted by Transfer of Tribunal Functions Order 2010/22 Sch.3 para.5 (January 18, 2010)
8.— Withdrawal from ophthalmic list

(1) Subject to paragraphs (2) and (3), where a contractor gives notice in writing to the [Health Authority] that he wishes to withdraw from the ophthalmic list, his name shall be removed from that list at the expiration of three months from the date of that notice or of such shorter period as the [Health Authority] may agree.

[(1A) An ophthalmic medical practitioner or optician, who applies for inclusion in a supplementary list, must give notice to the Local Health Board, as soon as practicable thereafter, that he or she intends to withdraw from its ophthalmic list if his or her name is included in the supplementary list of any Local Health Board.]²

[(2) Where a Health Authority is investigating an ophthalmic medical practitioner or optician—
(a) for the purpose of deciding whether or not to exercise its powers under section 49F, 49G or 49I of the Act;
(b) in order to see whether the ophthalmic medical practitioner or optician has failed to comply with a condition imposed on his or her inclusion under regulation 7D so as to justify removal of the ophthalmic medical practitioner or optician from the list; or
(c) who has been suspended under section 49I(1)(a) of the Act,
the ophthalmic medical practitioner or optician may not withdraw from any list kept by any Health Authority in which the ophthalmic medical practitioner or optician is included, except where the National Assembly has given its consent, until the matter has been finally determined by the Health Authority.

(2A) Where a Health Authority has decided to remove an ophthalmic medical practitioner or optician from a list under section 49F or 49G of the Act, or contingently remove under section 49G of the Act, or remove the ophthalmic medical practitioner or optician for breach of a condition imposed on inclusion under regulation 7D, but has not yet given effect to its decision, the ophthalmic medical practitioner or optician may not withdraw from any list kept by any Health Authority in which the ophthalmic medical practitioner or optician is included, except where the National Assembly has given its consent.
Where a Health Authority has suspended an ophthalmic medical practitioner or optician under section 49I(1)(b), the ophthalmic medical practitioner or optician may not withdraw from any list kept by any Health Authority in which the ophthalmic medical practitioner or optician is included, except where the National Assembly has given its consent, until the decision of the relevant court or body is known and the matter has been considered and finally determined by the Health Authority. [3]

(3) The [Health Authority]¹ shall not agree to a contractor's withdrawal from the ophthalmic list unless and until it is satisfied that satisfactory arrangements have been made for the completion of any general ophthalmic services which he has undertaken to provide.

[(4) In the case of a notice pursuant to paragraph (1A), the Local Health Board must remove the name of the ophthalmic medical practitioner or optician from its ophthalmic list as soon as it confirms that his or her name is included in a supplementary list.

(5) A notice given pursuant to paragraph (1A) may not be withdrawn once the name of the ophthalmic medical practitioner or optician is included in a supplementary list. ]²

Notes

¹ Words substituted by National Health Service (General Ophthalmic Services) (Amendment) (Wales) Regulations 2002/1883 reg.2(2) (August 26, 2002)

² Amended by National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006/181 Pt 2 reg.30 (February 1, 2006)

³ Reg.8(2), (2A) and (2B) substituted for reg.8(2) by National Health Service (General Ophthalmic Services) (Amendment) (Wales) Regulations 2002/1883 reg.5 (August 26, 2002)

[...]¹

Notes

¹ Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)

Commencement

reg. 8(1)-(3): July 1, 1986

Extent

reg. 8(1)-(5): England, Wales
9.— Removal from ophthalmic list

(1) Where a [Primary Care Trust] has determined that a contractor—
   (a) has died,[…]
   (aa) in the case of a corporate optician, has been dissolved or ceased trading;
   (b) has otherwise ceased from being a doctor or optician,[ or ]
   (c) has had his or her name included in the supplementary list of any Local Health Board,
it shall remove his name from the ophthalmic list and, except in the case to which sub-paragraph (a) applies, notify the contractor immediately that he or she has been removed from the list.

(2) Where a [Primary Care Trust] determines in accordance with the following provisions of this regulation that a contractor whose name has been included for the preceding six months in its ophthalmic list has not during that period provided general ophthalmic services for persons in its locality, it shall remove his name from the ophthalmic list.

   (2A) In calculating the period of six months referred to in paragraph (2), a Health Authority [or Primary Care Trust] shall disregard any period during which the contractor provided no general ophthalmic services by reason only that he was suspended from the ophthalmic list.

(3) Before making a determination under paragraph (2) relating to a contractor the [Primary Care Trust] shall—
   (a) give him 28 days' notice of its intention to do so;
   (b) afford him an opportunity to make representations to the [Primary Care Trust] in writing or, if he so wishes, orally to a sub-committee which shall be appointed by the [Primary Care Trust] for the purpose and at least one third of the members of which shall be from a panel nominated by the appropriate Local Health Authority;
   (c) consult the appropriate Local Health Authority.

(4) Nothing in this regulation shall prejudice the right of a person to have his name included again in the ophthalmic list.

(5) No determination under [paragraph (2)] shall be made in respect of any contractor who is called into—
   (a) whole-time service in the Armed Forces of the Crown in a national emergency as a volunteer or otherwise;
   (b) compulsory whole-time service in those forces, including service resulting from any reserve liability or any equivalent service by a person liable for whole-time service in those forces,
until six months after the completion of that service.

(6) Any document which is required or authorised to be given to a contractor under this regulation may be given by delivering it to him or by sending it by recorded delivery service to his usual or last known place of business as recorded in the ophthalmic list.
(7) In this regulation, [“appropriate Local Health Authority”]\(^5\) means, where the contractor is an ophthalmic medical practitioner, the Local Medical [Health Authority]\(^5\) and, where the contractor is an optician, the Local Optical [Health Authority]\(^5\).

**Notes**

1. Words substituted by National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc. Provisions) Regulations 2002/2469 Sch.7 para.1 (October 1, 2002)
2. Amended by National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006/181 Pt 2 reg.31 (February 1, 2006)
3. Added by National Health Service (General Ophthalmic Services) Amendment Regulations 1996/705 reg.5 (April 1, 1996)
4. Words inserted by National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc. Provisions) Regulations 2002/2469 Sch.5 para.1 (October 1, 2002)
5. Words substituted by National Health Service (General Ophthalmic Services) (Amendment) (Wales) Regulations 2002/1883 reg.2(2) (August 26, 2002)

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[9A. Supplementary matters relating to removal]

In addition to the services covered by the definition of “health scheme” in section 49F(8) of the Act, the following shall also be health schemes—
(a) health services, including medical and surgical treatment, provided by Her Majesty's Forces;
(b) services provided by Port Health Authorities constituted under the Public Health (Control of Disease) Act 1984;
(c) health services provided to a prisoner in the care of the medical officer or any other such officer of a prison appointed for the purposes of section 7 of the Prison Act 1952;
(d) publicly-funded health services provided by or on behalf of any organisation anywhere in the world.\[
\]

Notes

1 Added by National Health Service (General Ophthalmic Services) Amendment (No. 2) Regulations 2001/3739 reg.6 (December 14, 2001: subject to savings specified in SI 2001/3739 reg.10)
2 Added by National Health Service (General Ophthalmic Services) (Amendment) (Wales) Regulations 2002/1883 reg.6 (August 26, 2002)

Extent

reg. 9A(a)-(d): England, Wales

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:

England | Wales

Partially In Force

England

Notes

1 Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)
[9B.— Criteria for decisions on removal]

[(1) Where a Local Health Board is considering whether to remove an ophthalmic medical practitioner or optician from its ophthalmic list under section 49F(4) of the Act (an unsuitability case), it must—
   (a) consider any information relating to the ophthalmic medical practitioner or optician which it has received in accordance with any provision of Schedule 1 or 1A;
   (b) check with the National Assembly for Wales as to any record held by it about past or current investigations or proceedings involving or relating to the ophthalmic medical practitioner or optician; and
   (c) in reaching its decision, take into consideration the matters set out in paragraph (2).
]

(2) The [matters] referred to in paragraph (1) are—
   (a) the nature of any criminal offence, investigation or incident;
   [ (b) the length of time since any offence, incident, conviction or investigation;
   (c) whether there are other offences, incidents or investigations to be considered;
   (d) any action taken or penalty imposed by any licensing or regulatory body, the police or the courts as a result of any such offence, incident or investigation;
   (e) the relevance of any offence, incident or investigation to the ophthalmic medical practitioner or optician's provision of general ophthalmic services and the likely risk to his or her patients or to public finances;
   (f) whether any offence was a sexual offence to which Part 1 of the Sexual Offences Act 2003 applies, or if had been committed in England and Wales, would have applied; ]
   (g) whether the ophthalmic medical practitioner or optician has been refused admittance to, conditionally included in, removed, contingently removed or is currently suspended from other Health Authority lists or equivalent lists, and if so, what the facts were in those cases and what were the reasons given by the Health Authority or equivalent body in the case; [...]
   (h) whether the ophthalmic medical practitioner or optician is, has in the preceding six months been, or was at the time of the originating events a director of a body corporate, which was refused admittance to, conditionally included in, removed or contingently removed from other Health Authority lists or equivalent lists, or is currently suspended from such lists, and if so, what the facts were in those cases and what were the reasons given by the Health Authority or equivalent body in the case [ ]; and ]
   [ (j) in the case of a corporate optician, whether a person who, at the time of the originating events, was one of its directors, has been refused admittance to, conditionally included in, removed contingently or suspended from any list, or equivalent list and, if so, the facts relating to the matter which led to such action and the reasons given by the Local Health Board or equivalent body for such action. ]

[(3) Where a Local Health Board is considering whether to remove an ophthalmic medical practitioner or optician from its ophthalmic list under section 49F(3) of the Act (“a fraud case”), it must—
   (a) consider any information relating to the ophthalmic medical practitioner or optician which it has received in accordance with any provision of Schedule 1 or 1A;
   (b) check with the National Assembly for Wales as to any record held by it about past or current investigations or proceedings involving or relating to the ophthalmic medical practitioner or optician; and]
(c) in reaching its decision, take into consideration the matters set out in paragraph (4).

(4) The matters referred to in paragraph (3) are—
(a) the nature of any fraud case;
(b) the length of time since the incident of fraud (if any) occurred, and since any investigation into that incident of fraud was concluded;
(c) whether there are other incidents of fraud cases or other criminal offences to be considered;
(d) any action taken by any licensing, regulatory or other body, the police or the courts as a result of any such offence, investigation or incident;
(e) the relevance of any incident of fraud to the provision by the ophthalmic medical practitioner or optician of general ophthalmic services and the likely risk to patients or to public finances;
(f) whether the ophthalmic medical practitioner or optician has been refused admittance to, conditionally included in, removed, contingently removed or is currently suspended from other Health Authority lists or equivalent lists, and if so, the facts relating to the matter which led to such action and the reasons given by the Health Authority or equivalent body for such action; [...] and
(g) whether the ophthalmic medical practitioner or optician is, has in the preceding six months been, or was at the time of the originating events a director of a body corporate which was refused admittance to, conditionally included in, removed or contingently removed from other Health Authority lists or equivalent lists, or is currently suspended from such lists, and if so, the facts relating to the matter which led to such action and the reasons given by the Health Authority or equivalent body for such action; [...] [j] in the case of a corporate optician, whether a person who, at the time of the originating events, was one of its directors, has been refused admittance to, conditionally included in, removed or suspended from any list or equivalent list and, if so, the facts relating to the matter which led to such action and the reasons given by the Local Health Board or equivalent body for such action.

(5) Where a Local Health Board is considering whether to remove an ophthalmic medical practitioner or optician from its ophthalmic list under section 49(F)(2) of the Act (“an efficiency case”), it must—
(a) consider any information relating to the ophthalmic medical practitioner or optician which it has received in accordance with any provision of Schedule 1 or 1A.
(b) check with the National Assembly for Wales as to any record held by it about past or current investigations or proceedings involving or relating to the ophthalmic medical practitioner or optician; and
(c) in reaching its decision, take into consideration the matters set out in paragraph (6).

(6) The matters referred to in paragraph (5) are—
(a) whether the continued inclusion in the list of the ophthalmic medical practitioner or optician would be prejudicial to the efficiency of the general ophthalmic services provided by the ophthalmic medical practitioner or optician;
(b) the length of time since any incident occurred, and since the investigation of the incident was concluded;
(c) any action taken by any licensing, regulatory or other body, the police or the courts as a result of any such incident;
(d) the nature of the incident and whether there is a likely risk to patients;
(e) whether the ophthalmic medical practitioner or optician has ever failed to comply with a request by the Health Authority to undertake an assessment by the National Clinical Assessment Authority [on or before 31st March 2005 or thereafter by the National Patient Safety Agency]34;
(f) whether the ophthalmic medical practitioner or optician has previously failed to supply information or comply with an undertaking required by these Regulations [or the Supplementary List Regulations]2;
(g) whether the ophthalmic medical practitioner or optician has been refused admittance to, conditionally included in, removed, contingently removed or is currently suspended from other Health Authority lists or equivalent lists, and if so, the facts relating to the matter which led to such action and the reasons given by the Health Authority or equivalent body for such action; [...]2
(h) whether the ophthalmic medical practitioner or optician was at the time, has in the preceding six months been, or was at the time of the originating events a director of a body corporate which was refused admittance to, conditionally included in, removed or contingently removed from other Health Authority lists or equivalent lists, or is currently suspended from such lists, and if so, the facts relating to the matter which led to such action and the reasons given by the Health authority or equivalent body for the such action [; and]1
[j) in the case of a corporate optician, whether a person, who, at the time of the originating events, was one of its directors, has been refused admittance to, conditionally included in, removed, contingently removed or suspended from any list or equivalent list and, if so, the facts relating to the matter which led to such action and the reasons given by the Local Health Board or equivalent body for such action.1
(7) In making any decision under section 49F of the Act, the Health Authority shall take into account the effect of all relevant incidents and offences relating to the ophthalmic medical practitioner or optician of which it is aware, whichever condition it relies on.

(8) When making a decision on any condition in section 49F of the Act, the Health Authority shall state in its decision on which condition (or conditions) in section 49F it relies.

Notes

1 Added by National Health Service (General Ophthalmic Services) (Amendment) (Wales) Regulations 2002/1883 reg.6 (August 26, 2002)
2 Amended by National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006/181 Pt 2 reg.32 (February 1, 2006)
3 Words added by Special Health Authorities Abolition Order 2005/502 Sch.2 para.1 (April 1, 2005)
4 The National Clinical Assessment Authority is a Special Health Authority established under section 11 of the Act by S.I. 2000/2961.

Extent

reg. 9B(1)-(8): England, Wales
Cases where the Health Authority must remove an ophthalmic medical practitioner or optician

(1) The Health Authority must remove the ophthalmic medical practitioner or optician from the ophthalmic list where it becomes aware that the ophthalmic medical practitioner or optician—
   (a) has been convicted in the United Kingdom of murder; [...] ¹
   (b) has been convicted in the United Kingdom since 30th July 2002 of a criminal offence and sentenced to a term of imprisonment of over six months [ ; ] ²
   (c) is subject to a national disqualification;
   (d) in the case of an ophthalmic medical practitioner, is the subject of—
      (i) a direction given by the Professional Conduct Committee of the General Medical Council under section 36(1)(i) or (ii) of the Medical Act 1983 ³ (professional misconduct and criminal offences,
      (ii) an order or direction made by that Committee under section 38(1) of the Medical Act 1983 (order for immediate suspension), or
      (iii) from the coming into force of article 13 of the Medical Act 1983 (Amendment) Order 2002, a direction by a Fitness to Practise Panel of the General Medical Council for erasure or immediate suspension under section 35D(2)(a) or (b), (5)(a) or (b), (10)(a) or (b), or (12)(a) or (b) (functions of a Fitness to Practise Panel), or section 38(1) of the Medical Act 1983 (power to order immediate suspension); [...] ⁴
   (e) in the case of an optician, is the subject of a suspension order under section 17 of the Optician's Act [ ; or ] ⁴ ²
   (f) in the case of an optician, is the subject of a direction made by the Fitness to Practise Committee of the General Optical Council other than in a health case to erase his or her name from the appropriate register or suspend his or her registration under section 13F(3)(a) or (b), (7)(a) or (b) or (13)(a) or (b) (powers of the Fitness to Practise Committee) of the Opticians Act 1989. ] ⁴
[1A] In paragraph (1), “health case” has the meaning given to it in section 13G(6) of the Opticians Act 1989.

(2) The Health Authority shall notify the ophthalmic medical practitioner or optician immediately that the ophthalmic medical practitioner or optician has been removed from the list.

Notes
1 Added by National Health Service (General Ophthalmic Services) (Amendment) (Wales) Regulations 2002/1883 reg.6 (August 26, 2002)
2 Added by National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006/181 Pt 2 reg.33 (February 1, 2006)
3 1983 c.54; section 36 was amended by S.I. 2000/1803.
4 Amended by National Health Service (General Ophthalmic Services) (Amendment) (Wales) Regulations 2007/122 reg.2(3) (January 25, 2007)

Extent
reg. 9C(1)-(2): England, Wales

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to: 
England | Wales

Partially In Force
England

[...]¹

Notes
¹ Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)

Wales

9D.— Notifications by Health Authorities

(1) Where a Health Authority—
(a) refuses to include an ophthalmic medical practitioner or optician under regulation 7A;
(b) imposes conditions on the inclusion of the ophthalmic medical practitioner or optician in the ophthalmic list under regulation 7D;
(c) removes an ophthalmic medical practitioner or optician under section 49F of the Act;
(d) contingently removes an ophthalmic medical practitioner or optician under section 49G of the Act; [...]¹

(e) suspends an ophthalmic medical practitioner or optician [ ; or ]¹

(f) removes an ophthalmic medical practitioner or optician under regulation 9 or 9C. ]¹

it shall notify the persons and bodies listed in paragraph (2) and shall additionally notify those specified in paragraph (3) if so requested by those persons or bodies in writing (including electronically), of the matters set out in paragraph (4).

(2) Where paragraph (1) applies, a Health Authority shall notify–

(a) the National Assembly for Wales;

(b) any Health Authority in Wales that has the ophthalmic medical practitioner or optician, or a body corporate of which the ophthalmic medical practitioner or optician is a director, on any of its lists, or is considering an application for inclusion in any of its lists by such an ophthalmic medical practitioner or optician or body corporate;

(bb) any Local Health Board in Wales in whose area the ophthalmic medical practitioner or optician, to the knowledge of the notifying Local Health Board, provides or assists in the provision of general ophthalmic services; ]¹

(c) the Scottish Executive;

(d) the Secretary of State;

(e) the Northern Ireland Executive;

(f) the General Optical Council, General Medical Council or any other appropriate professional regulatory body;

(ff) the NCAA; ]¹

(g) any other organisation that, to the knowledge of the Health Authority, employs or uses the services of the ophthalmic medical practitioner or optician in a professional capacity;

(h) where it is a fraud case, [ the NHS Business Services Authority ]², and that notification will be given not later that 7 days after the Local Health Board makes the decision referred to in paragraph (1). ]¹

(3) The persons or bodies who shall be additionally notified in accordance with paragraph (1) are persons or bodies that can establish that they are considering employing the ophthalmic medical practitioner or optician in a professional capacity.

(4) The matters referred to in paragraph (1) are–

(a) the name, address and, where applicable, the date of birth of the ophthalmic medical practitioner or optician, and, in the case of a corporate optician, that information in respect of its directors; ]¹

(b) professional registration number;

(c) date and copy of the decision of the Health Authority;

(d) a contact name of a person in the Health Authority for further enquiries.

(5) The Health authority shall send the ophthalmic practitioner or optician concerned a copy of any information about the ophthalmic medical practitioner or optician provided to the persons or bodies specified in paragraph (2) or (3) and any correspondence with those persons or bodies relating to that information.

(6) Where the Health Authority has notified any of the persons or bodies mentioned in paragraph (2) or (3) of the matters set out in paragraph (4), it may in addition, if so requested by that person or body, notify that person or body of any evidence that was considered, including representations of the ophthalmic medical practitioner or optician.
(7) Where a Health Authority is notified by the [First-tier Tribunal] that it has imposed a national disqualification on an ophthalmic medical practitioner or optician whom the Health Authority had removed from its list, it shall notify the persons or bodies listed in paragraph (2)(b), (ff), (g), and (h) and those in paragraph (3)\(^1\).

(8) Where a decision is changed on review or appeal, or a suspension lapses, the Health Authority shall notify any person or body that was notified of the original decision of the later decision.

[ (9) Where a Local Health Board is notified by the [First-tier Tribunal] that it has imposed a national disqualification on an ophthalmic medical practitioner or optician who was, or had applied to be, included in its ophthalmic list, the Local Health Board must notify the persons or bodies referred to in paragraphs (2)(b), (ff), (g), and (h) and those in paragraph (3). ]\(^1\)

Notes

\(^1\) Amended by National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006/181 Pt 2 reg.34 (February 1, 2006)

\(^2\) Possible drafting error - words purportedly substituted in reg.9D(2)(h) but instead has been applied to reg.9D(2)(i) in relation to England by Special Health Authorities Abolition Order 2006/635 Sch.2 para.1(4)(d) (April 1, 2006)

\(^3\) Word substituted by Transfer of Tribunal Functions Order 2010/22 Sch.3 para.7 (January 18, 2010)

Extent

reg. 9D(1)-(8): England, Wales
(b) contingently removing an ophthalmic medical practitioner or optician under section 49G of the Act; or
(c) removing an ophthalmic medical practitioner or optician for breach of a condition imposed under regulation 7D,
it shall follow the procedure set out in paragraphs (3) to (8) below.

(2) Where a Health Authority is notified by the [First-tier Tribunal] that it has considered--
(a) an appeal by an ophthalmic medical practitioner or optician against a contingent removal by the Health Authority and has decided to remove the ophthalmic medical practitioner or optician instead; or
(b) an appeal by an ophthalmic medical practitioner or optician against a conditional inclusion, where the ophthalmic medical practitioner or optician has been conditionally included in the list until the appeal has been decided, and has decided not to include the ophthalmic medical practitioner or optician,
the Health Authority shall remove the ophthalmic medical practitioner or optician and shall notify the ophthalmic medical practitioner or optician immediately that it has done so.

(3) Before reaching a decision of the kind mentioned in paragraph (1), the Health Authority shall--
(a) give the ophthalmic medical practitioner or optician notice in writing of any allegation against the ophthalmic medical practitioner or optician;
(b) give the ophthalmic medical practitioner or optician notice of what action the Health Authority is considering and on what grounds;
(c) give the ophthalmic medical practitioner or optician the opportunity to make written representations to the Health Authority within 28 days of the date of the notification under sub-paragraph (b);
(d) give the ophthalmic medical practitioner or optician the opportunity to put his or her case at an oral hearing before the Health Authority, if the ophthalmic medical practitioner or optician so requests within the 28 day period mentioned in sub-paragraph (c).

(4) If there are no representations within the period specified in paragraph (3)(c), the Health Authority shall [notify] the ophthalmic medical practitioner or optician of its decision, the reasons for it (including any facts relied upon), and of any right of appeal [within 7 days of making that decision].

(5) If there are representations, the Health Authority must take them into account before reaching its decision, and notifying the ophthalmic medical practitioner or optician of its decision, the reasons for it (including any facts relied upon), and of any right of appeal [within 7 days of making that decision].

(6) If the ophthalmic medical practitioner or optician requests an oral hearing, this must take place before the Health Authority reaches its decision, and the Health Authority must then notify the ophthalmic medical practitioner or optician of its decision, the reasons for it (including any facts relied upon) and of any right of appeal [within 7 days of making that decision].

(7) When the Health Authority notifies the ophthalmic medical practitioner or optician of any decision, it shall [notify] the ophthalmic medical practitioner or optician that if the ophthalmic medical practitioner or optician wishes to exercise a right of appeal, the ophthalmic medical practitioner or optician has 28 days from the date of the decision to do so, and shall tell the ophthalmic medical practitioner or optician how to do so.
(8) The Health Authority shall also notify the ophthalmic medical practitioner or optician of his or her right to have the decision reviewed in accordance with section 49L of the Act.

Notes

1. Added by National Health Service (General Ophthalmic Services) (Amendment) (Wales) Regulations 2002/1883 reg.6 (August 26, 2002)

2. Word substituted by Transfer of Tribunal Functions Order 2010/22 Sch.3 para.8 (January 18, 2010)

3. Amended by National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006/181 Pt 2 reg.35 (February 1, 2006)

Extent

reg. 9E(1)-(8): England, Wales

[9F.— Procedure on suspension]

(1) Before reaching a decision to suspend an ophthalmic medical practitioner or optician under section 49I or 49J of the Act, the Health Authority shall—

(a) give the ophthalmic medical practitioner or optician notice in writing of any allegation against the ophthalmic medical practitioner or optician;

(b) give the ophthalmic medical practitioner or optician notice of what action the Health Authority is considering and on what grounds;

(c) give the ophthalmic medical practitioner or optician the opportunity to put his or her case at an oral hearing before the Health Authority on a specified day, provided at least 24 hours' notice of the hearing is given.
(2) If the ophthalmic medical practitioner or optician does not wish to have an oral hearing, or does not attend the oral hearing, the Health Authority shall inform the ophthalmic medical practitioner or optician of its decision [within 7 days of making that decision]².

(2A) If the ophthalmic medical practitioner or optician does not wish to have an oral hearing or does not attend the oral hearing, the Local Health Board may suspend him or her with immediate effect.¹

(3) If an oral hearing takes place, the Health Authority shall take into account any representations made before it reaches its decision.

(4) The Health Authority may suspend the ophthalmic medical practitioner or optician with immediate effect following the hearing.

(5) The Health Authority shall notify the ophthalmic medical practitioner or optician of its decision and the reasons for it (including any facts relied upon) [within 7 days of making that decision]².

¹

Notes
1 Added by National Health Service (General Ophthalmic Services) (Amendment) (Wales) Regulations 2002/1883 reg.6 (August 26, 2002)
2 Amended by National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006/181 Pt 2 reg.36 (February 1, 2006)

Extent
reg. 9F(1)-(5): England, Wales

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:

- England
- Wales

Partially In Force

England

[...]

Notes
1 Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)
[9G.— Procedure on review of Health Authority decision

(1) If a Health Authority decides to review its decision to conditionally include, contingently remove or suspend an ophthalmic medical practitioner or optician, it shall—

(a) notify the ophthalmic medical practitioner or optician in writing that it intends to review its decision;
(b) notify the ophthalmic medical practitioner or optician of what action it has in mind and the reasons for it;
(c) give the ophthalmic medical practitioner or optician the opportunity to make written representations to the Health Authority within 28 days of the date of the notification under sub-paragraph (b);
(d) give the ophthalmic medical practitioner or optician the opportunity to put his or her case at an oral hearing before the Health Authority if the ophthalmic medical practitioner or optician requests one within the 28 day period mentioned above.

(2) If there are representations, the Health Authority must take them into account before reaching its decision.

(3) If the ophthalmic medical practitioner or optician requests an oral hearing, this must take place before the Health Authority reaches its decision.

(4) The Health Authority shall notify the ophthalmic medical practitioner or optician of any decision and the reasons for it (including any facts relied upon).

(5) When the Health Authority notifies the ophthalmic medical practitioner or optician of any decision, it shall inform the ophthalmic medical practitioner or optician of any right of appeal, that the ophthalmic medical practitioner or optician has 28 days from the date of the decision to exercise that right if the ophthalmic medical practitioner or optician wishes to do so, and tell the ophthalmic medical practitioner or optician how to do so [within 7 days of making that decision]².

(6) The Health Authority shall also notify the ophthalmic medical practitioner or optician of the right of the ophthalmic medical practitioner or optician to have the decision further reviewed in accordance with section 49L of the Act.

Notes

1 Added by National Health Service (General Ophthalmic Services) (Amendment) (Wales) Regulations 2002/1883 reg.6 (August 26, 2002)

2 Words added by National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006/181 Pt 2 reg.37 (February 1, 2006)

Extent

reg. 9G(1)-(7): England, Wales
[9H.— National Disqualification

(1) if on making a decision to impose a national disqualification, the [First-tier Tribunal] \(^2\) states that it is of the opinion that the criminal or professional conduct of the ophthalmic medical practitioner or optician is such that there is no realistic prospect of a further review being successful if held within the period specified in section 49N(8)(a) of the Act, the reference to “two years” in that provision shall be a reference to five years;

(2) if on the last review by the FHSAA of a national disqualification the ophthalmic medical practitioner or optician was unsuccessful and the FHSAA states that it is of the opinion that there is no realistic prospect of a further review being successful if held within a period of three years beginning with the date of its decision on that review, the reference to “one year” in section 49N(8)(b) of the Act shall be a reference to three years;

(3) if the FHSAA states that it is of the opinion that because a criminal conviction considered by the FHSAA in reaching its decision has been quashed or the penalty reduced on appeal, there is a need for an immediate review, the reference to “two years” and “one year” in section 49N(8) of the Act shall be a reference to the period that has already elapsed;

(4) if the FHSAA is of the opinion that because the decision of a licensing, regulatory or other body has been quashed or the penalty reduced on appeal, there is a need for an immediate review, the reference to “two years” or “one year” in section 49N(8) of the Act shall be a reference to the period that has already elapsed.

\(^1\) Notes

1. Added by National Health Service (General Ophthalmic Services) (Amendment) (Wales) Regulations 2002/1883 reg.6 (August 26, 2002)

2. Substituted by Transfer of Tribunal Functions Order 2010/22 Sch.3 para.9 (January 18, 2010)

Extent

reg. 9H(1)-(1)(d): England, Wales
[9I.— Readmission]

(1) Where an ophthalmic medical practitioner or optician has been removed from its ophthalmic list by a Local Health Board on the grounds that the he or she had been convicted of a criminal offence, and that conviction is overturned on appeal, it may agree to include the ophthalmic medical practitioner or optician in its ophthalmic list without a full application if it—

(a) is satisfied that there are no other matters that need to be considered; and

(b) has received an undertaking from the ophthalmic medical practitioner or optician to comply with the requirements of these Regulations.

(2) In a case to which paragraph (1) applies, if the conviction is reinstated on a further appeal, the previous determination of the Local Health Board to remove that ophthalmic medical practitioner or optician from its ophthalmic list will once again have effect.

Notes

1 Added by National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006/181 Pt 2 reg.38 (February 1, 2006)
10. — The Statement

(1) The Secretary of State shall, after consultation with such organisations as appear to him to be representative of contractors providing general ophthalmic services, make provision in a determination (in these regulations referred to as “the Statement”) as to—

(a) the fees to be paid by a Primary Care Trust for the testing of sight by ophthalmic medical practitioners and opticians, and

(b) the allowances to be paid in respect of continuing education and training by ophthalmic medical practitioners and opticians other than corporate opticians. [ A determination may provide that such fees and allowances may be paid in respect of a period beginning on a date earlier than the date of the determination if, taking the determination as a whole, it is not detrimental to the persons to whose remuneration it relates. ]

(2) Any such determination—

(a) shall be published;

(b) may be amended, in whole or in part, after consultation with those organisations referred to in paragraph (1).

Notes

1 Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)

2 Words substituted by National Health Service (Optical Charges and Payments) and (General Ophthalmic Services) (Amendment) (Wales) Regulations 2008/577 reg.3 (March 28, 2008)
11. Terms of service
The arrangements for the provision of general ophthalmic services which it is the duty of the [Primary Care Trust]¹, under section 38 of the Act, to make and, under section 15 of the Act, to administer shall incorporate the terms of service and the Statement.

Notes
1 Words substituted by National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc. Provisions) Regulations 2002/2469 Sch.7 para.1 (October 1, 2002)

Notes
1 Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)

Commencement
reg. 11: July 1, 1986

Extent
reg. 11: England, Wales

¹ The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:
Wales | England

Partially In Force

Wales

England

[...]¹

Notes
1 Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)
12.— Payment for services
(1) A [Primary Care Trust]¹ shall make payments to contractors in accordance with the Statement.

[(1A) Where in accordance with regulation 13B(4) a [Primary Care Trust]¹ has paid to a patient in respect of a testing of sight an amount which exceeds the fee payable to the contractor, in accordance with the Statement, for that testing, it shall deduct the excess from remuneration otherwise payable to the contractor. ]²

(2) Where a [Primary Care Trust]¹ considers that it has made a payment to a contractor owing to an error or in circumstances where it was not due, it shall, except to the extent that the Secretary of State on the application of the [Primary Care Trust]¹ directs otherwise, draw the overpayment to the attention of the contractor and—

(a) where he admits the overpayment; or
(b) where he does not admit the overpayment but, the matter having been referred under [regulation 5(1) of the National Health Service (Service Committees and Tribunal) Regulations 1992³] for investigation, the [Primary Care Trust]¹, or the Secretary of State on appeal, decides that there has been an overpayment, the amount overpaid shall be recoverable by a deduction from the contractor's remuneration or in some other manner.

(3) Recovery of an overpayment under the provisions of this regulation shall be without prejudice to the investigation of an alleged breach of the terms of service.

(4) A contractor who is unable to complete for a patient the general ophthalmic services which he has undertaken to provide shall inform the [Primary Care Trust]¹ accordingly in writing, and if the [Primary Care Trust]¹ is satisfied that the inability is due to a reasonable cause it shall make payment in accordance with the Statement to the contractor for such part of those services as he shall have provided.

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Notes
1 Words substituted by National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc. Provisions) Regulations 2002/2469 Sch.7 para.1 (October 1, 2002)
2 Added by National Health Service (General Ophthalmic Services) Amendment Regulations 1989/395 reg.3 (April 1, 1989)
3 Words substituted by National Health Service (General Ophthalmic Services) Amendment Regulations 1996/705 reg.6 (April 1, 1996)
4 The relevant amending instrument is S.I. 1996/703.

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[...]¹

Notes
1 Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)

Commencement
reg. 12(1)-(4): July 1, 1986
[12A.—

(1) The Health Authority shall make payments to any ophthalmic medical practitioner or optician who is suspended in accordance with the National Assembly's determination for the time being in force in relation to such payments.

(2) The National Assembly shall make the determination in accordance with paragraph (3) after consultation with the organisations referred to in regulation 10(1) and it shall be published with the Statement referred to in regulation 10(1).

(3) Subject to paragraphs (4) and (5), the National Assembly's determination shall be such as to secure that, as far as reasonably practicable, the suspended ophthalmic medical practitioner or optician receives payments at a rate corresponding to the remuneration of the ophthalmic medical practitioner or optician by virtue of regulation 10 during the 12 months ending with the suspension of the ophthalmic medical practitioner or optician.

(4) The National Assembly's determination may include provision that payments in accordance with the determination are not to exceed a specified amount in any specified period.

(5) The determination shall provide for a deduction to take account of any payments which the suspended doctor receives for providing general ophthalmic services otherwise than as a principal.

(6) Regulation 10(2) shall apply to determinations under this regulation as it applies to determinations under that regulation.

(7) Regulation 12(2) shall apply to payments made under this regulation as it applies to payments made under that regulation.

Notes

1 Substituted by National Health Service (General Ophthalmic Services) (Amendment) (Wales) Regulations 2002/1883 reg.7 (August 26, 2002)
[13.— Sight Tests - eligibility]

(1) A person may have his sight tested under general ophthalmic services if, at the time of the testing of sight, he is any of the following—
   (a) a person who is under the age of 16 years;
   (b) a person who is under the age of 19 years and receiving qualifying full-time education within the meaning of section 38(2) of the Act;
   (bb) a person who is aged 60 years or more; ²
   (c) a person whose resources are treated in accordance with paragraph (2) as being less than, or equal to, his requirements;
   (d) a person who requires to wear a complex appliance;
   (e) a person who is registered blind or partially sighted under section 29 of the National Assistance Act 1948; ³
   (f) a person who has been diagnosed as suffering from diabetes or glaucoma ³, or has been advised by an ophthalmologist that he is predisposed to the development of glaucoma; ⁴
   (g) a person who is aged 40 or over and is the parent, brother, sister or child of a person who has been diagnosed as suffering from glaucoma.

(2) A person's resources shall be treated as being less than or equal to his requirements if—
   (a) he is in receipt of income support;
   (b) he is a member of the same family as a person who is in receipt of income support;
   (c)-(d) [...]; ⁵
   (e) his income resources as calculated in accordance with regulation 6 of, and Schedule 1 to, the Remission Regulations for the purposes of remission of charges under the Act are less than [his requirements as so calculated or exceed his requirements as so calculated by fifty per cent or less of the amount of the charge specified in regulation 3(1)(b) (supply of drugs and appliances by chemists) of the National Health Service (Charges for Drugs and
Appliances) Regulations 2000 and his capital resources as so calculated do not exceed the capital limit; [...] (f) he is a member of the same family as a person described in paragraph (e) of this paragraph.

(g)-(h) [...] (i) he is in receipt of an income-based jobseeker's allowance; [...] (j) he is a member of the same family as a person described in sub-paragraph (i) of this paragraph [...]; (k) he is a relevant child for the purposes of section 23A of the Children Act 1989 to whose maintenance a responsible local authority is contributing under section 23B(8) of that Act [...]; (l) he is a member of a family—

(i) one member of which is receiving—
(aa) working tax credit and child tax credit,
(bb) working tax credit which includes a disability element or a severe disability element, or
(cc) child tax credit, but is not eligible to receive working tax credit, and
(ii) where the gross annual income of the person or persons to whom an award of a tax credit is made under section 14 of the Tax Credits Act 2002 is determined at the time of the award not to exceed £15,276; or

(m) he is a person in respect of whom there is a current notice of entitlement;
(n) he is a member of a family one member of which is receiving pension credit guarantee credit [...]; (o) he is in receipt of income-related employment and support allowance; or
(p) he is a member of the same family as a person in receipt of income-related employment and support allowance.

[ (2A) In paragraph (1)(f) "ophthalmologist" means a doctor whose name is included in the register of specialists kept by the General Medical Council under article 8 of the European Specialist Medical Qualifications Order 1995 and in respect of whom that register indicates his speciality to be ophthalmology. ]

[ (3) In paragraph (2), “family” has the meaning assigned to it by section 137(1) of the Social Security Contributions and Benefits Act 1992 as it applies to income support except that—
(a) in sub-paragraphs (b), (f) and (n) it has the meaning assigned to it by section 35 of the Jobseekers Act 1995; [...]; (b) in sub-paragraph (k) it has the meaning assigned to it by regulation 2(2) of the Tax Credits (Definition and Calculation of Income) Regulations 2002; and [...]; (d) in sub-paragraph (p) “family” has the meaning given to it by regulation 2 of the Employment and Support Allowance Regulations 2008. ]

Notes

1 Regs.13, 13A and 13B substituted for reg.13 by National Health Service (General Ophthalmic Services) Amendment Regulations 1989/395 reg.4 (April 1, 1989)
2 Added by National Health Service (General Ophthalmic Services) (Amendment) Regulations 1999/693 reg.3(a) (April 1, 1999)
3 1948 c.29; section 29(2) and (3) were repealed by the Local Government Act 1972 (c.70).
4 Words inserted by National Health Service (General Ophthalmic Services) (Amendment) Regulations 1999/693 reg.3(b) (April 1, 1999)
5 Modification includes a possible drafting error - a second reg.13(2)(k) is purportedly inserted after reg.13(2)(j) by National Health Service (Optical Charges and Payments) and (General Ophthalmic Services) (Amendment) (Wales) Regulations 2003/955 reg.9 (April 6, 2003)
6 Words substituted by National Health Service (Travelling Expenses and Remission of Charges) and (Optical Charges and Payments) and (General Ophthalmic Services) (Amendment) (Wales) Regulations 2004/1042 reg.4 (April 6, 2004)
7 Word repealed by National Health Service (General Ophthalmic Services) Amendment Regulations 1995/558 reg.3(1) (April 1, 1995)
8 Added by National Health Service (General Ophthalmic Services) Amendment (No.2) Regulations 1996/2320 reg.3(2)(b) (October 7, 1996)
9 Amended, possible drafting error, reg.13(3)(d) purportedly inserted after (c) but that provision was repealed by SI 2003/955 reg.9(3) therefore (d) is inserted after (b) by National Health Service (General Ophthalmic Services) and (Optical Charges and Payments) (Amendment) (Wales) Regulations 2008/2552 reg.2 (October 27, 2008)
10 Added by National Health Service (Optical Charges and Payments) and (General Ophthalmic Services) (Amendment) (No.3) (Wales) Regulations 2001/3323 reg.4 (October 1, 2001)
11 Modification includes possible drafting errors - reg.13(2)(l) purportedly substituted in relation to Wales but that provision does not exist and is therefore applied to the second reg.13(2)(k); words are purportedly substituted in reg.13(3)(a) but those words do not exist and therefore the appropriate words are substituted by National Health Service (Optical Charges and Payments) and (General Ophthalmic Services) (Amendment) (Wales) Regulations 2004/1014 reg.8 (April 6, 2004)
12 Figure substituted by National Health Service (Amendments relating to Optical Charges and Payments) (Wales) Regulations 2009/589 reg.7 (April 1, 2009)
13 Added by National Health Service (General Ophthalmic Services) (Amendment) Regulations 1999/693 reg.3(c) (April 1, 1999)
14 S.I. 1995/3208, to which there are amendments not relevant to these Regulations.

[...]

Notes
1 Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)

Commencement
reg. 13(1)-(2)(b): July 1, 1986

Extent
reg. 13(1)-(3)(c): England, Wales
[13A.— Sight tests - applications]

(1) An eligible person who wishes to have his sight tested under general ophthalmic services may make an application to any contractor for his sight to be tested.

(2) The application shall be made on a form provided for that purpose to contractors by the [Health Authority] and shall contain a written declaration signed by the applicant to the effect that he is an eligible person.

(3) In addition, a person who is an eligible person—
   (a) but only by virtue of regulation 13(1)(c) and (2)(e) or (f) shall show to the contractor a current notice of entitlement;
   (b) but only by virtue of regulation 13(1)(d), shall show to the contractor the prescription for a complex appliance issued to him on the occasion when his sight was last tested;
   (c) but only by virtue of regulation 13(1)(f), shall on a form provided for that purpose to contractors by the [Health Authority] provide the contractor with the name and address of his doctor and give his consent to the [Health Authority] seeking confirmation of his diabetes or glaucoma from his doctor.

(4) A contractor to whom an application for a testing of sight is made shall, before making any test of the person's sight—
   (a) subject to paragraph (5)—
       (i) satisfy himself that the person is an eligible person by asking for satisfactory evidence of entitlement, unless the contractor, in cases other than where the patient is a person specified in regulation 13(1)(c), already has satisfactory evidence of it available to him; and
       (ii) where the patient has been asked for, but not produced, satisfactory evidence that he is an eligible person, then the contractor shall record the fact on the patient's sight test form;
   (b) ensure that particulars of the patient and the approximate date of the last testing, if any, of his sight are inserted in a sight test form by the patient or on his behalf; and
   (c) satisfy himself that the testing of sight is necessary.

(5) Where an eligible person to whom paragraph (3)(b) applies is unable to meet its requirements, the contractor may, instead of satisfying himself that those requirements are met, satisfy himself that the person is an eligible person by referring to his own records or by measuring the power of the lenses of the person's existing optical appliance by means of a focimeter or other suitable means.

(6) Where the contractor has provided the sight test at the place where the patient normally resides, he shall record on the sight test form the reason given by the patient, or on the patient's behalf, for not being able to leave home unaccompanied.
(7) The contractor may appoint a member of his staff to carry out the requirements of paragraph (4)(a)(i) and (ii) on his behalf, and he shall ensure the member of staff so appointed is given instruction to enable that person to fulfil the requirements on his behalf. ]¹

Notes

¹ Regs.13, 13A and 13B substituted for reg.13 by National Health Service (General Ophthalmic Services) Amendment Regulations 1989/395 reg.4 (April 1, 1989)

² Words substituted by National Health Service (General Ophthalmic Services) (Amendment) (Wales) Regulations 2002/1883 reg.2(2) (August 26, 2002)

³ Amended in relation to Wales only by National Health Service (Optical Charges and Payments) and (General Ophthalmic Services) (Amendment) (No.2) (Wales) Regulations 2001/1423 reg.9 (May 1, 2001)

England

[...]¹

Notes

¹ Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)

Extent

reg. 13A(1)-(7): England, Wales

Wales

[...]¹

Notes

¹ Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)
Sight test treated as a test under general ophthalmic services

(1) A person whose sight is tested by a contractor but who was not an eligible person immediately before the testing and—

(a) who is shown during the testing to fall within the description specified in sub-paragraph (d) of regulation 13(1); or

(b) who is shown, in accordance with paragraph (3), within 3 months after the testing to fall within either of the descriptions specified in sub-paragraphs (e)(f) or (k) of regulation 13(2),

shall be taken for the purposes of the testing to have so fallen immediately before his sight was tested.

(2) Where paragraph (1) applies the testing shall be treated as a testing of sight under the Act for the purposes of regulation 8(1)(a) of the National Health Service (Optical Charges and Payments) Regulations 1989\(^2\) as well as for the purposes specified in section 38(6)(i) and (ii) of the Act.

(3) For the purposes of paragraph (1)(b) a person is shown to fall within a description specified in sub-paragraph (e)(f) or (k) of regulation 13(2) if he presents to the \[Health Authority\]\(^3\) a notice of entitlement which is effective for a period which includes the date of the testing of sight or for a period beginning no later than 14 days after the date of the testing of sight.

(4) Where a testing of a person's sight is treated by virtue of paragraphs (1)(b) and (3) as a testing of sight under the Act the \[Health Authority\]\(^3\) shall, on being presented with a receipt for, or other evidence of, any fee paid for the testing, and on being satisfied as to its amount, pay to that person an amount equal to that fee.

Notes

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1 Substituted by National Health Service (Optical Charges and Payments) and (General Ophthalmic Services) (Amendment) (No.3) (Wales) Regulations 2001/3323 reg.5 (October 1, 2001)

2 S.I. 1989/396.

3 Words substituted by National Health Service (General Ophthalmic Services) (Amendment) (Wales) Regulations 2002/1883 reg.2(2) (August 26, 2002)

Extent

reg. 13B(1)-(4): England, Wales
14.— Applications and signatures by children or persons incapable

(1) Subject to paragraph (2), an application for general ophthalmic services required by these regulations may be made and a signature required by these regulations may be given—
   (a) on behalf of any person under 16 years of age by either parent or, in the absence of both parents, the guardian or other adult person who has the care of the child;
   (b) on behalf of any other person who is incapable of making the application or, giving the signature, by a relative or any other adult who has the care of that person; or
   (c) on behalf of any person under 18 years of age—
      (i) in the care of an authority to whose care he has been committed under the provisions of the Children and Young Persons Act 1969 or which has received him into care under the Child Care Act 1980 by a person duly authorised by that authority;
      (ii) in the care of a voluntary organisation, by that organisation or a person duly authorised by them.

(2) A signature on an application may not be given by the contractor to whom the application is made.

England

[...]

Notes

1 Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)

Commencement

reg. 14(1)-(2): July 1, 1986

Extent

reg. 14(1)-(2): England, Wales
Statement, but the [Primary Care Trust]\(^1\) need not make available copies of all those documents at every place at which it makes available copies of any of them.

**Notes**

1 Words substituted by National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc. Provisions) Regulations 2002/2469 Sch.7 para.1 (October 1, 2002)

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[...]\(^1\)

**Notes**

1 Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)

**Commencement**

reg. 15: July 1, 1986

**Extent**

reg. 15: England, Wales

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The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to: Wales | England

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[16] **Service of documents on contractors**

Subject to regulation 9(6), any document which is required or authorised under these regulations (including the terms of service) to be given to a contractor may be given by delivering it to him or by sending it addressed to him at any address notified by him to the Health Authority for inclusion in the ophthalmic list as a place at which he has undertaken to provide general ophthalmic services, or in the case of a mobile practice, the address notified to the Health Authority as the address to which correspondence may be sent.\(^1\)

**Notes**

1 Substituted in relation to Wales only by National Health Service (Optical Charges and Payments) and (General Ophthalmic Services) (Amendment) (No.2) (Wales) Regulations 2001/1423 reg.10 (May 1, 2001)
Revocations, saving and transitional provisions

17.— Revocations, saving and transitional provisions

(1) Subject to paragraphs (2) and (3), the regulations specified in column 1 of Schedule 2 ("the revoked regulations") are hereby revoked.

(2) An optical appliance supplied before 1st July 1986 as part of general ophthalmic services may be repaired before 1st July 1987, and part of such an appliance may be replaced before that date, as though the revoked regulations remained in force and as though the amendments to sections 38 and 39 of the Act effected by section 1(3) and (4) of, and paragraph 1 of Schedule 1 to, the 1984 Act had not been made.

(3) In respect of any supply, replacement or repair of an optical appliance under general ophthalmic services for which arrangements were made before 1st July 1986 or any replacement or repair under paragraph (2), payments and charges shall be made as though the revoked regulations and any determination made under them and in force on 30th June 1986 were in force and as though the repeal in section 82(b) of the Act effected by section 24 of, and Schedule 8 to, the 1984 Act had not been made.
Notes
1 Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)

Commencement
reg. 17(1)-(3): July 1, 1986

Extent
reg. 17(1)-(3): England, Wales

Signed by authority of the Secretary of State for Social Services.

Barney Hayhoe,
Minister of State,
Department of Health and Social Security.
6th June 1986.

SCHEDULE 1
TERMS OF SERVICE

Regulation 2(1)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:

Wales | England

Partially In Force

Wales

1. Interpretation
In this Schedule, unless the context otherwise requires—
   (a) “the regulations” means the National Health Service (General Ophthalmic Services) Regulations 1986;
   (b) a reference to a numbered regulation is a reference to the regulation bearing that number in the regulations;
   (c) a reference to a numbered paragraph is a reference to the paragraph bearing that number in this Schedule and a reference in a paragraph to a numbered sub-paragraph is a reference to the sub-paragraph bearing that number in that paragraph.
2. Incorporation of provisions

Any provisions of the following affecting the rights and obligations of contractors shall form part of the terms of service—

(a) the regulations;
(b) so much of [Part II of the National Health Service (Service Committees and Tribunal) Regulations 1992]¹ as relates to—
   (i) the investigation of questions arising between contractors and their patients, other investigations to be made by the [ophthalmic discipline committee]², and the action which may be taken by the Committee as a result of such investigations, including the withholding of remuneration from a contractor where there has been a breach of the terms of service;
   (ii) appeals to the Secretary of State from decisions of the Committee;
   [ (iii) the investigation of excessive issuing of optical vouchers following a sight test; ]³
   [ (c) regulation 9 of the National Health Service (Optical Charges and Payments) Regulations 1997; ]³
(d) the Statement [ ; ]⁴
   [ (f) regulation 3 of the Local Involvement Networks (Duty of Services-Providers to Allow Entry) Regulations 2008 in so far as it applies to the contractor. ]⁴
[3 Premises at which general ophthalmic services are to be provided]
Subject to paragraph 3A, a contractor must provide general ophthalmic services only at an address which is included in relation to the contractor in the ophthalmic list.

Notes
1 Substituted by National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006/181 Pt 2 reg.39(2) (February 1, 2006)
[3A.— Provision of mobile services]

(1) A contractor, who has made arrangements with the Local Health Board to provide mobile services, may provide them only in accordance with sub-paragraph (2) after giving notice in accordance with sub-paragraph (3).

(2) The contractor may only provide mobile services if—

(a) the patient has requested the contractor to provide those services to him or her, or, where the patient is incapable of making such a request, a relative or primary carer of that patient or a duly authorised person has made such a request; and

(b) subject to sub-paragraphs (5), (6) and (7), the contractor has notified the Local Health Board in accordance with sub-paragraph (3), and if applicable, (4) and the Local Health Board has not informed the contractor that it is not content with those changes.

(3) The contractor must notify the Local Health Board of his or her intention to provide mobile services—

(a) where they are to be provide to three or more persons at a day centre or residential centre, at least three weeks in advance; or

(b) in any other case, as far in advance as is reasonably possible, but not less than 48 hours (except that no part of a Saturday, Sunday or bank holiday will count toward that period) before that provision,
identifying the persons to whom the services are to be provided and specifying the date and approximate time when the contractor will provide them.

(4) If the contractor wishes to change any of the matters of which he or she has notified the Local Health Board under sub-paragraph (3), the contractor must notify the Local Health Board at least 48 hours (except that no part of a Saturday, Sunday or bank holiday will count towards that period) before—

(a) if the contractor wishes to provide mobile services to further or different persons, that provision;
(b) if the contractor wish to change the date or time of the provision of those services, both—

(i) the previously notified date of that provision, and
(ii) if the notification is to change the date, the date so notified.

(5) If the contractor is unable to attend the place at which the contractor has notified the Local Health Board that he or she would be attending, the contractor may instead, on that day and at that approximate time, provide mobile services at another location (“the substitution”), provided that the Local Health Board notifies the contractor that it agrees to the substitution.

(6) In a case to which paragraph (5) applies the contractor may attend and provide mobile services at the originally notified place at such time as the Local Health Board agrees.

(7) In a case where circumstances have arisen whereby it was not possible to notify in accordance with sub-paragraph (4)(a), the contractor may provide mobile services to up to 3 other persons at the previously notified time and place.

Notes

1 Substituted by National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006/181 Pt 2 reg.39(2) (February 1, 2006)

1 Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)

Extent

Sch. 1 para. 3A(1)-(7): England, Wales

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to: Wales | England
4.— Premises and equipment

(1) [Subject to [[sub-paragraphs (1A) to (1D)]3 and ]2 paragraph 8(5), a contractor]1 shall provide, as may be requisite, proper and sufficient consulting and waiting room accommodation and suitable equipment for the provision of the general ophthalmic services which he has undertaken to provide.

[(1A) A contractor, who has made arrangements with the Local Health Board to provide mobile services, must provide suitable equipment for the provision of such services.

(1B) A contractor, who was included on the ophthalmic list of a Local Health Board on 31 January 2006, and who—

(a) does not provide or no longer provides accommodation and equipment, as required under sub-paragraph (1), or equipment as required under sub-paragraph (1A); and

(b) is not employed, in relation to the general ophthalmic services which he or she has undertaken to provide in the area of that Local Health Board, by another contractor, may, instead of providing the accommodation and equipment, as required under sub-paragraph (1), or equipment as required by sub-paragraph (1A), enter into arrangements of the kind described in sub-paragraph (1C), provided the conditions set out in sub-paragraph (1D) are met.

(1C) The arrangements referred to in sub-paragraph (1B) are legally enforceable arrangements under which—

(a) requisite, proper and sufficient consulting and waiting room accommodation and suitable equipment; or

(b) in the case of the provision of mobile services, suitable equipment,

are available to the contractor for the provision of the general ophthalmic services that he or she has undertaken to provide, which permit inspection as required under paragraph 4(2) or (2A).

(1D) The conditions referred to in sub-paragraph (1B) are that the contractor has satisfied the Local Health Board that—

(a) the arrangements are legally enforceable and permit inspection as required under paragraph 4(2) or (2A); and

(b) the accommodation and equipment or, in the case of the provision of mobile services, equipment, provided under the arrangements are adequate and suitable.

]3

(2) [Subject to [[sub-paragraphs (2A) and (3)]3 and ]2 paragraph 8(5), a contractor]1, on receipt of a written request from the [Health Authority]4 to do so, shall admit at all reasonable times for the purposes of inspecting his accommodation or equipment an authorised officer of the Secretary of State or an authorised officer or member of the [Health Authority]4.

[(2A) A contractor, who has made arrangements with the Local Health Board to provide mobile services,]3 on receipt of a written request from a Health Authority or the National Assembly for Wales, shall arrange for an authorised officer of the Health Authority or of the National Assembly
for Wales to be allowed to inspect at a reasonable time the facilities and equipment that he uses.]

[(3) In addition to the right to inspect under sub-paragraph (2A), a contractor who has made arrangements with the Local Health Board to provide mobile services, must allow an authorised officer of the National Assembly for Wales or that Local Health Board to inspect the facilities and equipment that he or she uses when providing those services at a location of which the contractor has notified the Local Health Board in accordance with paragraph 3A(3).] 

Notes

1 Words substituted by National Health Service (General Ophthalmic Services) Amendment Regulations 1988/486 reg.2(2) (April 11, 1988)
2 Amended in relation to Wales only by National Health Service (Optical Charges and Payments) and (General Ophthalmic Services) (Amendment) (No.2) (Wales) Regulations 2001/1423 reg.11(5) (May 1, 2001)
3 Amended by National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006/181 Pt 2 reg.39(3) (February 1, 2006)
4 Words substituted by National Health Service (General Ophthalmic Services) (Amendment) (Wales) Regulations 2002/1883 reg.2(2) (August 26, 2002)

Notes

1 Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)

Commencement

Sch. 1 para. 4(1)-(2): July 1, 1986

Extent

Sch. 1 para. 4(1)-(3): England, Wales
5.

(1) Subject to sub-paragraph (2), a contractor shall secure that at each place at which he provides general ophthalmic services there is prominently displayed a notice and leaflet supplied or approved by the Health Authority or Primary Care Trust, indicating the services available under general ophthalmic services and indicating to which descriptions of his patients a payment may be made under the National Health Service (Optical Charges and Payments) Regulations 1997.

(2) Where mobile services are being provided, a notice is required to be be displayed only in so far as it is reasonably practicable to do so. 2

Notes

1 Words substituted by National Health Service (Optical Charges and Payments) and (General Ophthalmic Services) (Amendment) (No.2) (Wales) Regulations 2001/1423 reg.11(6) (May 1, 2001)

2 Existing para.5 renumbered as para.5(1) and para.5(2) added by National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006/181 Pt 2 reg.39(4) (February 1, 2006)

6.— Records

(1) [ Subject to paragraph 6ZA a ] 2 contractor shall keep a proper record in respect of each patient to whom he provides general ophthalmic services, giving appropriate details of sight testing.
(2) Subject to [paragraphs 6ZA and 8(5)]\(^2\), a contractor shall retain all such records for a period of seven years, and shall during that period produce them when required to do so by a Health Authority or the National Assembly for Wales—
   (a) to an officer authorised by a Health Authority or by the National Assembly for Wales; and
   (b) within such period, not being less than 14 days, as the Health Authority or the National Assembly for Wales may specify.

Notes

1 Substituted in relation to Wales only by National Health Service (Optical Charges and Payments) and (General Ophthalmic Services) (Amendment) (No.2) (Wales) Regulations 2001/1423 reg.11(7) (May 1, 2001)

2 Amended by National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006/181 Pt 2 reg.39(5) (February 1, 2006)

Commencement

Sch. 1 para. 6(1)-(2)(b): July 1, 1986

Extent

Sch. 1 para. 6(1)-(2)(b): England, Wales

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:

England | Wales

Notes

1 Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)
[6ZA.—

(1) A contractor, who was included on the list of a Local Health Board on 31 January 2006 and who—
(a) does not keep or no longer keeps records as required under paragraph 6; and
(b) is not employed, in relation to the general ophthalmic services he or she provides in the area of that Local Health Board, by another contractor,
may, instead of keeping those records, comply with the conditions set out in sub-paragraph (2).

(2) The conditions referred to in sub-paragraph (1) are that the contractor has—
(a) made legally enforceable arrangements that a proper record in respect of each patient to whom the contractor provides general ophthalmic services, giving appropriate details of sight testing, is kept and that all such records are kept for a period of seven years and during that period must be produced when and as required under paragraph 6(2);
(b) satisfied the Local Health Board as to the keeping of records and that the arrangements are legally enforceable and require such production; and
(c) access to those records at all reasonable times.

]¹

Notes

¹ Added by National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006/181 Pt 2 reg.39(6) (February 1, 2006)

Extent

Sch. 1 para. 6ZA(1)-(2)(c): England, Wales
(d) has been convicted elsewhere of an offence, or what would constitute a criminal offence if committed in England and Wales, or is subject to a penalty which would be the equivalent of being bound over or cautioned;
(e) is currently the subject of any proceedings which might lead to such a conviction, which have not yet been notified to the Health Authority;
(f) has been subject to any investigation into his or her professional conduct by any licensing, regulatory or other body anywhere in the world, where the outcome was adverse;
(g) is currently subject to any investigation into his or her professional conduct by any licensing, regulatory or other body anywhere in the world;
(h) is, to the knowledge of the ophthalmic medical practitioner or optician, or has been where the outcome was adverse, the subject of any investigation by the National Health Service Counter Fraud Service in relation to a fraud case;
(i) is the subject of any investigation by another Health Authority or equivalent body, which might lead to the removal of the ophthalmic medical practitioner or optician from any of that Health Authority's lists or equivalent lists;
(j) is, or has been where the outcome was adverse, subject to an investigation into the professional conduct of the ophthalmic medical practitioner or optician in respect of any current or previous employment;
(k) has been removed, contingently removed, refused admission to, or conditionally included in any list or equivalent list kept by another Health Authority or equivalent body, or is currently suspended from such a list,

and if so, give details of any investigation or proceedings which were or are to be brought, including the nature of the investigation or proceedings, where and approximately when the investigation or those proceedings took place or are to take place and any outcome.

(2) If the contractor is, has in the preceding six months been, or was at the time of the originating events a director of a body corporate, the ophthalmic medical practitioner or optician shall in addition by 31st October 2002 supply in writing information to the Health Authority as to whether the body corporate—

(a) has any criminal convictions in the United Kingdom;
(b) has been convicted elsewhere of an offence, or what, if committed in the United Kingdom, would constitute a criminal offence or is subject to a penalty which would be the equivalent of being bound over or cautioned;
(c) is currently the subject of any proceedings which might lead to such a conviction, which have not yet been notified to the Health Authority;
(d) has been subject to any investigation into its provision of professional services by any licensing, regulatory or other body anywhere in the world, where the outcome was adverse;
(e) is currently subject to any investigation into its provision of professional services by any licensing, regulatory or other body anywhere in the world;
(f) is to the knowledge of the ophthalmic medical practitioner or optician, or has been where the outcome was adverse, the subject of any investigation by the National Health Service Counter Fraud Service in relation to a fraud case;
(g) is the subject of any investigation by another Health Authority or equivalent body, which might lead to its removal from any of that Health Authority's lists or equivalent lists;
(h) has been removed, contingently removed, refused admission to, or conditionally included in any list or equivalent list kept by another Health Authority or equivalent body, or is currently suspended from such a list,
and if so give details of the name and registered office of the body corporate, any investigation or proceedings which were or are to be brought, the nature of the investigation or proceedings, where and approximately when the investigation or those proceedings took place or are to take place, and any outcome.

(3) The contractor shall provide all necessary authority to enable a request to be made by the Health Authority to any employer or former employer, licensing, regulatory or other body in the United Kingdom or elsewhere, for information relating to a current investigation, or an investigation where the outcome was adverse, by them into the contractor referred to in sub-paragraph (5) [ and for the purposes of this sub-paragraph, “employer” includes any partnership of which the ophthalmic medical practitioner or optician is or was a member ] 2.

(4) [ The contractor must notify ] 2 the Health Authority within 7 days if the ophthalmic medical practitioner or optician—

(a) is convicted of any criminal offence in the United Kingdom;
(b) is bound over to keep the peace in the United Kingdom;
(c) accepts a police caution in the United Kingdom;
[ (cc) has accepted a conditional offer under section 302 of the Criminal Procedure (Scotland) Act 1995 (fixed penalty: conditional offer by procurator fiscal) or agreed to pay a penalty under section 115A of the Social Security Administration Act 1992 (penalty as alternative to prosecution);
(c) has, in proceedings in Scotland for an offence, been the subject of an order under section 246(2) or (3) of the Criminal Procedure (Scotland) Act 1995 discharging him or her absolutely; ] 2
(d) is convicted elsewhere of an offence, or what would constitute a criminal offence if committed in England and Wales […] 2;
(e) is charged in the United Kingdom with a criminal offence, or is charged elsewhere with an offence which, if committed in England and Wales, would constitute a criminal offence;
(f) is notified by any licensing, regulatory or other body anywhere in the world, of the outcome of any investigation into the professional conduct of the ophthalmic medical practitioner or optician, and there is a finding against the ophthalmic medical practitioner or optician;
(g) becomes the subject of any investigation into the professional conduct of the ophthalmic medical practitioner or optician by any licensing, regulatory or other body;
(h) becomes subject to an investigation into the professional conduct of the ophthalmic medical practitioner or optician in respect of any current or previous employment, or is notified of the outcome of any such investigation and any finding against the ophthalmic medical practitioner or optician;
[ (i) becomes to his or her knowledge the subject of any investigation by the NHS Counter Fraud and Management Service [ or the NHS Business Services Authority ] 2 in relation to fraud, or is notified of the outcome of such an investigation, where it is adverse; ] 2
(j) becomes the subject of any investigation by another Health Authority or equivalent body, which might lead to the removal of the ophthalmic medical practitioner or optician from any of that Health Authority's lists or equivalent lists;
(k) is removed, contingently removed, suspended, refused admission to, or conditionally included in any list or equivalent list kept by another Health Authority or equivalent body,
and if so, give details of any investigation or proceedings which were or are to be brought, including the nature of the investigation or proceedings, where and approximately when that investigation or those proceedings took place or are to take place, and any outcome.

(5) [The contractor must notify]² the Health Authority within 7 days if the body corporate of which the ophthalmic medical practitioner or optician is, or was in the preceding six months or was at the time of the originating events a director—

(a) is convicted of any criminal offence in the United Kingdom;
(b) has been convicted elsewhere of an offence, or what would constitute a criminal offence if committed in England and Wales […]²;
(c) is charged in the United Kingdom with a criminal offence, or is charged elsewhere with an offence which, if committed in England and Wales, would constitute a criminal offence;
(d) is notified by any licensing, regulatory or other body anywhere in the world, of the outcome of any investigation into its provision of professional services, and there is a finding against the body corporate;
(e) becomes the subject of any investigation by its professional body into its provision of professional services by any licensing, regulatory or other body anywhere in the world; [
(f) becomes to his or her knowledge the subject of any investigation in relation to fraud, or is notified of the outcome of such an investigation, if adverse;]²
(g) becomes the subject of any investigation by another Health Authority or equivalent body, which might lead to its removal from any of that Health Authority's lists or equivalent lists;
(h) is removed, contingently removed, suspended, refused admission to, or conditionally included in any list or equivalent list kept by another Health Authority or equivalent body, and if so, give the name and registered office of the body corporate and details, of any investigation or proceedings which were or are to be brought, including the nature of the investigation or proceedings, where and approximately when the investigation or proceedings took place or are to take place, and any outcome.

(5A) If the contractor is a corporate optician, it must notify the Local Health Board within 7 days if one of its directors or a person who was in the preceding six months or was at the time of the originating events one of its directors—

(a) is convicted of any criminal offence in the United Kingdom;
(b) is bound over following any criminal conviction in the United Kingdom;
(c) accepts a police caution in the United Kingdom;
(d) has accepted a conditional offer under section 302 of the Criminal Procedure (Scotland) Act 1995 (fixed penalty: conditional offer by procurator fiscal) or agreed to pay a penalty under section 115A of the Social Security Administration Act 1992 (penalty as alternative to prosecution);
(e) has, in proceedings in Scotland for an offence, been the subject of an order under section 246(2) or (3) of the Criminal Procedure (Scotland) Act 1995 discharging him or her absolutely;
(f) is convicted elsewhere of an offence, or what would constitute a criminal offence if committed in England and Wales;
(g) is charged in the United Kingdom with a criminal offence, or is charged elsewhere with an offence which, if committed in England and Wales would constitute a criminal offence;
(h) is notified by any licensing, regulatory or other body anywhere in the world, of the outcome of any investigation into his or her professional conduct, and there is finding against the contractor;
(i) becomes subject to any investigation into his or her professional conduct in respect of any current or previous employment, or is notified of the outcome of any such investigation and of any finding against him or her;
(j) becomes to his or her knowledge the subject of any investigation by the NHS Counter Fraud and Security Management Service in relation to fraud, or is notified of the outcome of such an investigation, where it is adverse;
(k) becomes the subject of any investigation by another Local Health Board or equivalent body, which might lead to his or her removal from any list or equivalent list;
(l) is removed, contingently removed or suspended from, refused admission to or conditionally included in any list or equivalent list,

and, if so, give the name and address of that director or ex-director and details, including approximate dates, of where any investigation or proceedings were or are to be brought, the nature of that investigation or proceedings, and any outcome.

(6) Where paragraphs (4) or (5) apply, the ophthalmic medical practitioner or optician shall provide all necessary authority to enable a request to be made by the Health Authority to any employer (or former employer), licensing, regulatory or other body in the United Kingdom or elsewhere, for information relating to a current investigation, or an investigation where the outcome was adverse, by them into the ophthalmic medical practitioner or optician or a body corporate referred to in sub-paragraph (5).

[(7) An ophthalmic medical practitioner or optician, who is included in the ophthalmic list of a Local Health Board must supply that Local Health Board with an enhanced criminal record certificate under section 115 of the Police Act 1997 in relation to himself or herself, if the Local Health Board at any time, for reasonable cause, gives the ophthalmic medical practitioner or optician notice to provide such a certificate.]

Notes

1 Added by National Health Service (General Ophthalmic Services) (Amendment) (Wales) Regulations 2002/1883 reg.8(2) (August 26, 2002)
2 Amended by National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006/181 Pt 2 reg.39(7) (February 1, 2006)
3 Words inserted by Special Health Authorities Abolition Order 2006/635 Sch.2 para.1(3)(b) (April 1, 2006)
Extent
Sch. 1 para. 6A(1)-(7): England, Wales

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:

England | Wales

Partially In Force

England

6B. Applications to other lists
An ophthalmic medical practitioner or optician shall inform the Health Authority—
(a) if the ophthalmic medical practitioner or optician, or a body corporate of which the ophthalmic medical practitioner or optician is a director, applies to be included in any list held by another Health Authority or equivalent body, and of the outcome of any such application; [...]¹
(b) if the ophthalmic medical practitioner or optician becomes a director of a body corporate that is included in any list held by a Health Authority, or applies to be included in such a list, and the outcome of any such application [ ; and ]¹
[(c) in the case of a corporate optician, if any of its directors applies to be included in any list held by another Local Health Board or equivalent body and the outcome of any such application. ]¹

Notes
¹ Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)

Wales

6B. Applications to other lists
An ophthalmic medical practitioner or optician shall inform the Health Authority—
(a) if the ophthalmic medical practitioner or optician, or a body corporate of which the ophthalmic medical practitioner or optician is a director, applies to be included in any list held by another Health Authority or equivalent body, and of the outcome of any such application; [...]¹
(b) if the ophthalmic medical practitioner or optician becomes a director of a body corporate that is included in any list held by a Health Authority, or applies to be included in such a list, and the outcome of any such application [ ; and ]¹
[(c) in the case of a corporate optician, if any of its directors applies to be included in any list held by another Local Health Board or equivalent body and the outcome of any such application. ]¹

Notes
¹ Added by National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006/181 Pt 2 reg.39(8)(b) (February 1, 2006)

Extent
Sch. 1 para. 6B(a)-(c): England, Wales
7.— Deputies

[(1) Subject to regulation 21 of the Supplementary List Regulations (transitional provisions), a contractor may arrange for sight to be tested on his or her behalf by an ophthalmic medical practitioner or optician, but no such arrangements can be made unless the name of the that ophthalmic medical practitioner or optician is included in an ophthalmic list or a supplementary list.]¹

(2) Any contractor who makes an arrangement for the regular provision of services by a deputy shall—

(a) notify the [Primary Care Trust]² of the arrangement [ . ]¹

(b) [...]¹

(3) A contractor shall be responsible for all acts and omissions of any person acting as his deputy and of any employee of that person; and a deputy who is himself a contractor shall be jointly responsible [ to the same extent as the contractor for whom he is deputising ]³.

Notes

¹ Amended by National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006/181 Pt 2 reg.39(9) (February 1, 2006)

² Words substituted by National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc. Provisions) Regulations 2002/2469 Sch.7 para.1 (October 1, 2002)

³ Words added by National Health Service (General Ophthalmic Services) Amendment Regulations 1988/486 reg.2(3) (April 11, 1988)

Commenence

Sch. 1 para. 7(1)-(3): July 1, 1986
8.— Employees

[(1) Subject to regulation 21 of the Supplementary List Regulations (transitional provisions), a contractor may employ to test sight—

(a) an ophthalmic medical practitioner or optician whose name is included in an ophthalmic list or a supplementary list; or
(b) a person who is authorised to test sight by rules made under section 24(3) of the Opticians Act 1989 (testing of sight), acting under the continuous personal supervision of an ophthalmic medical practitioner or optician whose name is included in an ophthalmic list or a supplementary list.

](1)

(4) A contractor who regularly employs an ophthalmic medical practitioner or an optician shall—

(a) notify the [Primary Care Trust] accordingly [. ]
(b) [...]

(5) A contractor shall be responsible for all acts and omissions of any employee; and an employee who is himself a contractor shall be jointly responsible [ but only, in the case of paragraphs 4(1) and (2) and 6(2), to the extent that he has not taken all reasonable steps to secure that the requirements of those provisions are met ]

(6) In this paragraph “employee” includes, in the case of a body corporate, a director and “employ” is to be interpreted accordingly.

Notes

1 Amended by National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006/181 Pt 2 reg.39(10) (February 1, 2006)

2 Words substituted by National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc. Provisions) Regulations 2002/2469 Sch.7 para.1 (October 1, 2002)

3 Words added by National Health Service (General Ophthalmic Services) Amendment Regulations 1988/486 reg.2(4) (April 11, 1988)
[...]

Notes

1 Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)

Commencement

Sch. 1 para. 8(1)-(6): July 1, 1986

Extent

Sch. 1 para. 8(1)-(6): England, Wales

[ 8ZA Complaints and Concerns ]

(1) A contractor must have in place—
   (a) arrangements for the handling and consideration of complaints about any matter connected with the provision of general ophthalmic services which comply with the provisions of paragraph 8A for the handling and consideration of any complaints—
      (i) which were made prior to 1 April 2011; and
      (ii) in respect of which the complaints process has not yet been completed, and
   (b) arrangements which comply with the requirements of the National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011, for the handling and consideration of any concerns notified on or after 1 April 2011. References in paragraphs 8B and 8C to a concern are to a concern notified in accordance with those Regulations.

]  

Notes

1 Added by National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011/704 Sch.2 para.1(2) (April 1, 2011)

Extent

Sch. 1 para. 8ZA(1)-(1)(b): England, Wales

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to: England | Wales

Partially In Force

England
[8A.— [Complaints received prior to 1 April 2011]²

(1) Subject to sub-paragraphs (2) and (3), a contractor shall establish, and operate in accordance with this paragraph, a procedure (in this paragraph and in paragraph 8B referred to as a “complaints procedure”) to deal with any complaints made by or on behalf of his patients and former patients.

(2) The complaints procedure to be established by a contractor may be such that it also deals with complaints made in relation to one or more other contractors.

(3) The complaints procedure to be established by a contractor who provides general ophthalmic services from more than one set of premises may be such that it relates to all those premises together.

(4) A complaints procedure shall apply to complaints made in relation to any matter reasonably connected with the contractor’s provision of general ophthalmic services and within the responsibility or control of—

(a) the contractor;
(b) where the contractor is a body corporate, any of its directors or former directors;
(c) a former partner of the contractor;
(d) any other person (being an optician, an ophthalmic medical practitioner or a person authorised to test sight by rules made under section 24(3) of the Opticians Act 1989) who is either employed by the contractor or engaged as his deputy;
(e) any employee of the contractor other than one falling within paragraph (d), and in this paragraph and paragraph 8B, references to complaints are to complaints falling within this sub-paragraph.

(5) A complaint may be made on behalf of a patient or former patient with his consent, or—

(a) where the patient is a child under the age of 16 years—

(i) by either parent, or in the absence of both parents, the guardian or other adult person who has care of the child, or
(ii) where the child is in the care of an authority to whose care he has been committed under the provisions of the Children Act 1989, or in the care of a voluntary organisation, by that authority or voluntary organisation; or

(b) where the patient is incapable of making a complaint, by a relative or other adult person who has an interest in his welfare.

(6) Where a patient has died, a complaint may be made by a relative or other adult person who had an interest in his welfare or, where the patient was as described in paragraph (a)(ii) of sub-paragraph (5), by the authority or voluntary organisation.

(7) A complaints procedure shall comply with the following requirements—
(a) the contractor must specify a person (who need not be connected with the contractor and who, in the case of an individual, may be specified by his job title) to be responsible for receiving and investigating all complaints;
(b) all complaints must be—
   (i) recorded in writing.
   (ii) acknowledged, either orally or in writing, within the period of two days (excluding Saturdays, Sundays, Christmas Day, Good Friday and bank holidays) beginning with the day on which the complaint was received by the person specified under paragraph (a) or where that is not possible, as soon as reasonably practicable, and
   (iii) properly investigated;
(c) within the period of 20 days (excluding Saturdays, Sundays, Christmas Day, Good Friday and bank holidays) beginning with the day on which the complaint was received by the person specified under paragraph (a), or where that is not possible, as soon as reasonably practicable, the complainant must be given a written summary of the investigation and its conclusions;
(d) where the investigation of the complaint requires consideration of the patient's sight testing records, the person specified under paragraph (a) must inform the patient or person acting on his behalf if the investigation will involve disclosure of information contained in those records to a person other than the contractor, or a director, partner, deputy or employee of the contractor; and
(e) the contractor must keep a record of all complaints and copies of all correspondence relating to complaints, but such records must be kept separate from patients' sight testing records.

(8) At each of the premises at which the contractor provides general ophthalmic services he must provide information about the complaints procedure which he operates and give the name (or title) and address of the person specified under paragraph (7)(a).

Notes

1 Amended by National Health Service (General Ophthalmic Services) (Amendment) (Wales) Regulations 2003/837 reg.2 (April 1, 2003)
2 Heading substituted by National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011/704 Sch.2 para.1(3) (April 1, 2011)

Extent

Sch. 1 para. 8A(1)-(8): England, Wales
[8B Co-operation with investigations]

(1) A contractor must co-operate with any investigation of a complaint or a concern in relation to any matter reasonably connected to the contractor’s provision of general ophthalmic services undertaken by a “relevant body”, which includes—
   (a) the Local Health Board;
   (b) the Welsh Ministers; or
   (c) the Public Services Ombudsman for Wales.

(2) The co-operation required by sub-paragraph (1) includes—
   (a) answering questions reasonably put to the contractor by a relevant body;
   (b) providing any information relating to the complaint or concern reasonably required by a relevant body; and
   (c) attending any meeting to consider the complaint or the concern (if held at a reasonably accessible place and at a reasonable hour, and due notice has been given), if the contractor’s presence is reasonably required by a relevant body.

Notes

1 Substituted by National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011/704 Sch.2 para.1(4) (April 1, 2011)

Extent

Sch. 1 para. 8B(1)-(2)(c): England, Wales

Notes

1 Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)
[8C Complaints made against and concerns notified about ophthalmic medical practitioners]

(1) Where a contractor who, being an ophthalmic medical practitioner, also performs primary medical services under a GMS contract for any person for whom he provides general ophthalmic services, the complaints procedure or procedure for notifying concerns established and operated in accordance with the terms of that GMS contract shall apply in relation to any matter reasonably connected with his provision of general ophthalmic services as it applies as respects the provision of services under the GMS contract.

(2) Accordingly, any requirement as to co-operation with investigations of complaints or concerns by other bodies imposed on a GMS contractor under the term of his contract which gives effect to paragraph 95 of Schedule 2 to the National Health Service (General Medical Services Contracts) (Wales) Regulations 2004 also applies in relation to complaints or concerns about such matters.

Notes
1 Amended by National Health Service (Concerns, Complaints and Redress Arrangements) (Wales) Regulations 2011/704 Sch.2 para.1(5) (April 1, 2011)

Extent
Sch. 1 para. 8C(1)-(7): England, Wales

9.— Payments

(1) Any claim by a contractor for fees in respect of the provision of general ophthalmic services shall be made by completing or securing the completion of a sight test form and sending it to the [Primary Care Trust] in whose locality the services were provided within six months after the date of completion of the provision of the services.

[

(2) Any such claim will be—
(a) signed by the ophthalmic medical practitioner or optician whose name is included in an ophthalmic list or a supplementary list and who performed the general ophthalmic services in respect of which the claim is made (“the practitioner”); and

(b) in a case where the practitioner is not on the ophthalmic list of that Local Health Board, counter-signed on behalf of the contractor by a person (who may be the contractor) duly authorised by the contractor to counter-sign, whom the contractor has previously notified the Local Health Board as being so authorised.

(2A) In the case of a claim signed under sub-paragraph (2)(a), the practitioner must supply, the practitioner’s signature, his or her professional registration number with the prefix and suffix given to that number in the ophthalmic list or supplementary list in which the practitioner's name is included; and

(2B) In the case of a claim counter-signed under sub-paragraph (2)(b), the person authorised to counter-sign must supply, with his or her counter-signature, the professional registration number of the contractor.

(3) A signatory [or counter-signatory]² shall sign any such claim in ink with his initials or forename and with his surname in his own handwriting and not by means of a stamp.

(4) Except as may be provided in the regulations, in the Statement or in sub-paragraph (5), a contractor shall not demand or accept from any patient or from other persons the payment of any fee or other remuneration in respect of the provision of general ophthalmic services.

(5) A contractor shall be entitled to demand and recover from a patient or person having charge of a patient a sum in respect of—

(a) loss of remunerative time resulting from that patient's failure to keep an appointment [...]

(b) [...]

(6) A contractor shall not demand or accept from the [Primary Care Trust]¹ the payment of any fee or other remuneration in respect of any item of service—

(a) which has not been provided under general ophthalmic services; or

(b) for which another claim has already been submitted to the [Primary Care Trust]¹.

Notes

1 Words substituted by National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc. Provisions) Regulations 2002/2469 Sch.7 para.1 (October 1, 2002)

2 Amended by National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006/181 Pt 2 reg.39(11) (August 1, 2006)

3 Words repealed by National Health Service (General Ophthalmic Services) Amendment Regulations 1990/1051 reg.2(4) (June 1, 1990)
[10.— Testing of sight]

(1) A contractor shall, having accepted pursuant to the regulations an application for the testing of sight, test the sight of a patient to determine whether the patient needs to wear or use an optical appliance, and on so doing shall fulfil any duty imposed on him by, or in Regulations made under, Section 20B of the Opticians Act 1958\(^2\).

(2) Where a contractor [or an ophthalmic medical practitioner or optician assisting the contractor in the provision of general ophthalmic services]\(^3\) is of the opinion that a patient whose sight he has tested pursuant to sub-paragraph (1)—

(a) shows on examination signs of injury, disease or abnormality in the eye or elsewhere which may require medical treatment; or

(b) is not likely to attain a satisfactory standard of vision notwithstanding the application of corrective lenses,

he shall, if appropriate, and with the consent of the patient, [...]\(^3\)

(i) refer the patient to an ophthalmic hospital,

(ii) inform the patient's doctor or GP practice that he or she has done so, and

(iii) give the patient a written statement that he or she has done so with details of the referral.\(^3\)

(3) Where a contractor tests the sight of a patient diagnosed as suffering from diabetes or glaucoma he shall inform the patient's doctor of the results of the test.

(3A) Where a contractor issues to a patient a prescription for glasses, he shall, immediately thereafter, require the patient to acknowledge its receipt on a sight test form.

(4) A prescription for glasses issued following a testing of sight under general ophthalmic services shall be completed by the method recommended in Appendix A to British Standard 3521: 1962.
11.— Use of disqualified name

(1) Subject to sub-paragraph (2), a contractor shall not use in any manner whatsoever the name or part of the name, either alone or in combination with any other words or letters of, or used by, any person so long as that person is disqualified by the Tribunal from inclusion in any ophthalmic list by virtue of section 47(1), 48(b), 49A(3), 49B(1) or 49D(2) of the Act\(^1\).
(2) Nothing in sub-paragraph (1) shall prevent a contractor other than a body corporate from using his own name, or being a body corporate from using the name by which it is enrolled in the register maintained pursuant to the provisions of the Opticians Act 1958.

Notes
1 Words inserted by National Health Service (General Ophthalmic Services) Amendment Regulations 1996/705 reg.8(7) (April 1, 1996)

[...]¹

Notes
1 Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)

Commencement
Sch. 1 para. 11(1)-(2): July 1, 1986

Extent
Sch. 1 para. 11(1)-(2): England, Wales

Repealed
[...]¹

Notes
1 Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)

[[ Schedule 1A ]²

Information and undertakings to be given when applying to be included in the ophthalmic list

]¹

Notes
1 Added by National Health Service (General Ophthalmic Services) Amendment (No. 2) Regulations 2001/3739 reg.9 (December 14, 2001)
2 Correction of possible drafting error - inserted Sch.2 renumbered as Sch.1A by National Health Service (General Ophthalmic Services) Amendment Regulations 2002/601 reg.14(1) (April 9, 2002)
**[1. Full name]**

Notes

1. Added by National Health Service (General Ophthalmic Services) Amendment (No. 2) Regulations 2001/3739 reg.9 (December 14, 2001)

**[2. Sex]**

Notes

1. Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)
Notes
1 Added by National Health Service (General Ophthalmic Services) Amendment (No. 2) Regulations 2001/3739 reg.9 (December 14, 2001)

[...]

Notes
1 Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)

Extent
Sch. 1A para. 2: England, Wales

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:

Wales | England

Partially In Force

Wales

[ 3.
Date of birth
]

Notes
1 Added by National Health Service (General Ophthalmic Services) Amendment (No. 2) Regulations 2001/3739 reg.9 (December 14, 2001)

[...]
Extent
Sch. 1A para. 3: England, Wales

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:

[4.]
Private address [or in the case of a corporate optician, the address of its registered office, and, in either case, telephone number.]¹

Notes
¹ Added by National Health Service (General Ophthalmic Services) Amendment (No. 2) Regulations 2001/3739 reg.9 (December 14, 2001)
² Words added by National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006/181 Pt 2 reg.40(2) (February 1, 2006)

[...¹]

Notes
¹ Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)

Extent
Sch. 1A para. 4: England, Wales

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:

Partially In Force

Wales

England
[5. Qualifications and where obtained]¹

Notes
¹ Added by National Health Service (General Ophthalmic Services) Amendment (No. 2) Regulations 2001/3739 reg.9 (December 14, 2001)

[...]¹

Notes
¹ Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)

Extent
Sch. 1A para. 5: England, Wales

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:

Wales | England

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[6. Professional registration number [ and the date of first registration in the register ]³ ]¹

Notes
¹ Added by National Health Service (General Ophthalmic Services) Amendment (No. 2) Regulations 2001/3739 reg.9 (December 14, 2001)
² Added by National Health Service (General Ophthalmic Services) (Amendment) (Wales) Regulations 2002/1883 reg.9 (August 26, 2002)
³ Words added by National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006/181 Pt 2 reg.40(3) (February 1, 2006)
Notes

1 Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)

Extent

Sch. 1A para. 6: England, Wales

[7.]

(a) Information on whether–
   (i) the ophthalmic medical practitioner or optician has any criminal convictions in the United Kingdom;
   [(ii) the ophthalmic medical practitioner or optician has been bound over in the United Kingdom;]¹
   (iii) the ophthalmic medical practitioner or optician has accepted a police caution in the United Kingdom;
   [(iiia) has accepted a conditional offer under section 302 of the Criminal Proceedings (Scotland) Act 1995 (fixed penalty: conditional offer by procurator fiscal) or agreed to pay a penalty under section 115A of the Social Security Administration Act 1992 (penalty as alternative to prosecution);]
   (iiib) has, in proceedings in Scotland for an offence, been the subject of an order under section 246(2) or (3) of the Criminal Procedure (Scotland) Act 1995 discharging him or her absolutely; ³
   (iv) the ophthalmic medical practitioner or optician has been convicted elsewhere of an offence, or what would constitute a criminal offence if committed in the [ England and Wales ³[...³]³ ;
   (v) the ophthalmic medical practitioner or optician is currently the subject of any proceedings which might lead to such a conviction, which have not yet been notified to the Health Authority;
   (vi) the ophthalmic medical practitioner or optician has been subject to any investigation into the professional conduct of the ophthalmic medical practitioner or optician by any licensing, regulatory or other body anywhere in the world, where the outcome was adverse;
(vii) the ophthalmic medical practitioner or optician is currently subject to any investigation into the professional conduct of the ophthalmic medical practitioner or optician by any licensing, regulatory or other body anywhere in the world;

[(viii) the ophthalmic medical practitioner or optician has been subject to an investigation into the professional conduct of the ophthalmic medical practitioner or optician in respect of any current or previous employment where the outcome was adverse;]³

(ix) the ophthalmic medical practitioner or optician is currently subject to an investigation into the professional conduct of the ophthalmic medical practitioner or optician in respect of any current or previous employment;

[(x) the ophthalmic medical practitioner or optician becomes to his or her knowledge the subject of any investigation by the NHS Counter Fraud and Security Management Service in relation to fraud, or is notified of the outcome of such an investigation, where it is adverse;]³

[(xi) is the subject of an investigation by another Local Health Board or equivalent body, which might lead to his or her removal from any list or equivalent list;

(xii) has been removed, contingently removed or suspended from, refused admission to or conditionally included in any list or equivalent list, and if so, give details, including approximate dates, of where the investigation or proceedings were or are to be brought, the nature of that investigation or those proceedings, and any outcome;]³

(b) if the ophthalmic medical practitioner or optician is, has in the preceding six months been, or was at the time of the originating events, a director of a body corporate, information on whether—

(i) it has any criminal convictions in the United Kingdom;

(ii) it has been convicted elsewhere of an offence, or what if committed in the [ England and Wales ]³, would constitute a criminal offence [ ... ];

(iii) it is currently the subject of any proceedings which might lead to such a conviction, which have not yet been notified to the Health Authority;

(iv) it has been subject to any investigation into its provision of professional services by any licensing, regulatory or other body anywhere in the world, where the outcome was adverse;

(v) it is currently subject to any investigation into its provision of professional services by any licensing, regulatory or other body anywhere in the world;

[(vi) it becomes to his or her knowledge the subject of any investigation by the NHS Counter Fraud and Security Management Service in relation to fraud, or is notified of the outcome of such an investigation, where it is adverse;]³

[(vii) is the subject of any investigation by another Local Health Board which might lead to his or her removal from any list or equivalent list;

(viii) has been refused, contingently removed or suspended from, refused admission to or conditionally included in any list or equivalent list,]³

[ and if so, give the name and registered office of the body corporate and details of any investigation or proceedings which were or are to be brought, including the nature of the investigation or proceedings, where and approximately when that investigation or those proceedings took place or are to take place, and any outcome [ ... ];³]

[(c) if the contractor is a corporate optician, information on whether any of its directors—

(i) has any criminal convictions in the United Kingdom;]
(ii) has been bound over following a criminal conviction in the United Kingdom;
(iii) has accepted a police caution in the United Kingdom;
(iv) has accepted a conditional offer under section 302 of the Criminal Procedure (Scotland) Act 1995 (fixed penalty: conditional offer by procurator fiscal) or agreed to pay a fixed penalty under section 115A of the Social Security Administration Act 1992 (penalty as alternative to prosecution);
(v) has, in proceedings in Scotland for an offence, been the subject of an order under section 246(2) or (3) of the Criminal Procedure (Scotland) Act 1995 discharging him or her absolutely;
(vi) has been convicted elsewhere of an offence, or what would constitute a criminal offence if committed in England and Wales;
(vii) is currently the subject of any proceedings which might lead to such a conviction which have not yet been notified to the Local Health Board;
(viii) is currently subject to any investigation into his or her professional conduct by any licensing, regulatory or other body;
(ix) is to his or her knowledge the subject of any investigation by the NHS Counter Fraud and Security Management Service in relation to fraud, or is notified of the outcome of such an investigation, where it is adverse;
(x) is the subject of any investigation by another Local Health Board or equivalent body which might lead to his or her removal from any list or equivalent list;
(xi) has been removed, contingently removed or suspended from, refused admission to, or conditionally included in any list or equivalent list,
and if so, give details, including approximate dates, of where any investigation or proceedings were or are to be brought, the nature of that investigation or those proceedings, and any outcome.

Notes
1 Added by National Health Service (General Ophthalmic Services) (Amendment) (Wales) Regulations 2002/1883 reg.9 (August 26, 2002)
2 Amended by National Health Service (General Medical Services Supplementary List) (Wales) (Amendment), the National Health Service (General Medical Services) (Amendment) (Wales) (No. 3), the National Health Service (General Dental Services) (Amendment) (Wale 2002/2802 reg.9 (November 15, 2002)
3 Amended by National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006/181 Pt 2 reg.40 (February 1, 2006)

Notes
1 Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)
Extent
Sch. 1A para. 7(a)-(c)(xi): England, Wales

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:

Wales | England

Partially In Force

Wales

[ 8.]
Professional experience (including starting and finishing dates of each appointment, with an explanation of any gaps between appointments), and an explanation of why the ophthalmic medical practitioner or optician was dismissed from any post.

Notes
1  Added by National Health Service (General Ophthalmic Services) (Amendment) (Wales) Regulations 2002/1883 reg.9 (August 26, 2002)

England

[…]

Notes
1  Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)

Extent
Sch. 1A para. 8: England, Wales

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:

Wales | England

Partially In Force

Wales
9. Names and addresses of two referees who are willing to provide references in respect of two recent posts (which may include any current post) as an ophthalmic medical practitioner or optician, which lasted for at least three months without a significant break, and where this is not possible, a full explanation and alternative referees.  

Notes

1 Added by National Health Service (General Ophthalmic Services) Amendment (No. 2) Regulations 2001/3739 reg.9 (December 14, 2001)

[...]1

Notes

1 Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)

Extent

Sch. 1A para. 9: England, Wales

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:

Wales | England

[10. If the ophthalmic medical practitioner or optician in not in the Local Health Board’s ophthalmic list, the name of any Local Health Board or equivalent body in any of whose lists or equivalent lists he or she is included, or from any of whose lists or equivalent lists he or she has been removed or contingently removed or is currently suspended, or to any of whose lists or equivalent lists he or she has been refused admission or conditionally included, with an explanation as to why, and particulars of any outstanding or deferred application for inclusion in the ophthalmic list, or any other list of a Local Health Board or equivalent body, with the name of the Local Health Board or equivalent body in question.  

1}
Notes
1 Substituted by National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006/181 Pt 2 reg.40(7) (February 1, 2006)

England

[...]

Notes
1 Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)

Extent
Sch. 1A para. 10: England, Wales

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:

Wales | England

Partially In Force

Wales

[11. If the applicant is the director of any body corporate that is included in any list of any [Primary Care Trust]², or equivalent lists, or which has an outstanding application (including a deferred application) for inclusion in any list of any [Primary Care Trust]² or equivalent list, the name and registered office of any such body.

]¹

Notes
1 Added by National Health Service (General Ophthalmic Services) Amendment (No. 2) Regulations 2001/3739 reg.9 (December 14, 2001)
2 Words substituted by National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc. Provisions) Regulations 2002/2469 Sch.7 para.1 (October 1, 2002)

England

[...]

[...]
[11A.
Where he or she is, or was in the preceding six months, or was at the time of the originating events, a director of a body corporate, details of any list or equivalent list to which that body has been refused admission, in which it has been conditionally included, from which it has been removed, contingently removed or from which it is currently suspended, with an explanation as to why and details of the Local Health Board or equivalent body concerned.

1]
[12. Any other information the [Primary Care Trust] may reasonably require.]

Notes
1 Added by National Health Service (General Ophthalmic Services) Amendment (No. 2) Regulations 2001/3739 reg.9 (December 14, 2001)
2 Words substituted by National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc. Provisions) Regulations 2002/2469 Sch.7 para.1 (October 1, 2002)

[...]

Notes
1 Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)

Extent
Sch. 1A para. 12: England, Wales

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:

Wales | England

[13. [...] An undertaking to—
(a) be bound by the terms of service;
(b) notify the [Primary Care Trust] within 7 days of any material changes to the information provided in the application until that application is finally determined;
(c) supply the information in this Schedule; and]
(d) neither to provide nor assist in the provision of general ophthalmic services in the area of another Local Health Board or equivalent body from whose ophthalmic list, supplementary list or equivalent list he or she has been removed, except where that removal was at his or her request or in accordance with regulation 10(7) or 21(12) of the Supplementary List Regulations, or regulation 9(2) of these Regulations, without the consent, in writing, of that Local Health Board or equivalent body.¹

¹ Notes

1 Added by National Health Service (General Ophthalmic Services) Amendment (No. 2) Regulations 2001/3739 reg.9 (December 14, 2001)
2 Added by National Health Service (General Ophthalmic Services) (Amendment) (Wales) Regulations 2002/1883 reg.9 (August 26, 2002)
3 Words substituted by National Health Service Reform and Health Care Professions Act 2002 (Supplementary, Consequential etc. Provisions) Regulations 2002/2469 Sch.7 para.1 (October 1, 2002)
4 Sch.1 para.13(c)-(d) substituted for Sch.1 para.(c) by National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006/181 Pt 2 reg.40(9) (February 1, 2006)

England

[...]

Notes

1 Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)

Extent

Sch. 1A para. 13(a)-(d): England, Wales

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:

Wales | England

[14.]

Provide all necessary authority to enable a request to be made by the Health Authority to any employer (or former employer), licensing, regulatory or other body in the United Kingdom or elsewhere, for information relating to a current investigation, or an investigation where the outcome was adverse, by them into the doctor or a body corporate referred to in sub-paragraph (5).
[15. In the case of a corporate optician, paragraphs 2, 3 and 5 will not apply, but it must also give details of its registration as a company.]

Notes
1. Added by National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006/181 Pt 2 reg.40(10) (February 1, 2006)
Extent
Sch. 1A para. 15: England, Wales

SCHEDULE 2
REGULATIONS REVOKED

Regulation 17(1)

The text of this provision varies depending on jurisdiction or other application. See parallel texts relating to:

Wales | England

Partially In Force

Wales

The National Health Service (General Ophthalmic Services) Regulations 1974  S.I. 1974/287
The National Health Service (General Ophthalmic Services) Amendment Regulations 1977  S.I. 1977/1999
The National Health Service (General Ophthalmic Services) Amendment Regulations 1981  S.I. 1981/305
The National Health Service (General Ophthalmic Services) Amendment Regulations 1985  S.I. 1985/298

England

[...]

Notes

1 Revoked by Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008/1700 Sch.2 para.1 (August 1, 2008)

Commencement
Sch. 2 para. 1: July 1, 1986

Extent
Sch. 2 para. 1: England, Wales
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for arrangements for general ophthalmic services under the National Health Service. They supersede and revoke previous regulations providing for those arrangements.

The main change of substance effected by these regulations concerns the removal from general ophthalmic services of the supply of optical appliances, so that the services consist only of the testing of sight. That removal is effected from 1st July 1986 by provisions of the Health and Social Security Act 1984 and accordingly these regulations make no provision for the supply of optical appliances, other than transitional provision (regulation 17). Other changes are the removal of a requirement for an ophthalmic medical practitioner or optician to notify a patient's doctor if a further eye examination is needed within six months of the previous one and the addition of a requirement (paragraph 5 of Schedule 1) regarding the display of a notice about the services available to the patient. There are also various minor changes mainly of a drafting nature.

The principal matters covered by these regulations are the qualifications of ophthalmic medical practitioners (regulations 3 to 5), the list of those providing general ophthalmic services (regulations 6 to 9), the determination of fees payable for those providing the services (regulation 10), the terms on which they provide them (regulation 11 and Schedule 1), payments to them (regulation 12), and provision for sight testing (regulation 13).

British Standard 3521:1962, referred to in paragraph 10(4) of Schedule 1 to these regulations, may be obtained from any of the sales outlets operated by the British Standards Institution or direct by post from the Institution at Linford Wood, Milton Keynes, MK14 6LE.
### Modifications

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**Schedule 1A Information and undertakings to be given when applying to be included in the ophthalmic list.**

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