



# Health and Social Security Act 1984

## 1984 CHAPTER 48

### PART I

#### HEALTH

##### *Optical appliances*

#### **1 Supply etc. of optical appliances**

(1) In section 21 of the Opticians Act 1958 (restriction on sale and supply of optical appliances)—

- (a) at the end of subsection (3) (exemptions) there shall be added " or (f) in accordance with an order under subsection (3A) below.";
- (b) the following subsections shall be inserted after that subsection—

“(3A) An order under this subsection is an order made by the Privy Council and specifying—

- (a) optical appliances to which it applies ; and
- (b) conditions subject to which their sale is ex-empted from the requirements of subsection (1) above.

(3B) Any such order relating to optical appliances consisting of or including one or more lenses shall specify as a condition subject to which the sale of any such appliance is so exempted the condition that the appliance must be in accordance with a written prescription which—

- (a) has been given by a registered medical practitioner or registered ophthalmic optician following a testing of sight by him ; and
- (b) bears a date not more than such time as is specified in the order before the prescription is presented to the proposed seller of the appliance.

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- (3C) An order under subsection (3A) above may not specify as appliances to which it applies—
- (a) contact lenses ; or
  - (b) any optical appliance for a person under 16 years of age.
- (3D) An order under subsection (3 A) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”.
- (2) The following subsections shall be substituted for subsection (5) of section 25 of that Act (rules)—
- “(5) Rules under this section shall not come into force until approved by order of the Privy Council.
- (6) The Privy Council—
- (a) may approve rules under subsection (1)(a) above either as submitted to them or subject to such modifications as appear to them requisite ; and
  - (b) after consulting the General Optical Council, may by order vary or revoke any rules made under that paragraph and previously approved by them (whether the approval was before or after the commencement of this subsection).
- (7) Where the Privy Council propose to approve any such rules subject to modifications, they shall notify to the General Optical Council the modifications they propose to make and consider any observations of the General Optical Council thereon.
- (8) The power to make an order under this section shall be exercisable by statutory instrument which, subject to the following provisions of this section, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) No order to which this subsection applies shall be made unless a draft of the order has been laid before and approved by resolution of each House of Parliament.
- (10) Subsection (9) above applies to an order—
- (a) which is made by virtue of paragraph (a) of sub- section (6) above and approves rules subject to modifications; or
  - (b) which is made by virtue of paragraph (b) of that subsection,
- unless it is contained in a statutory instrument that states that the General Optical Council have indicated their consent to the terms of the order either in the course of consultations under subsection (6)(b) above or in observations under subsection (7) above.”.
- (3) In section 38 of the National Health Service Act 1977 (arrangements for general ophthalmic services) for the words from " ophthalmic ", in the first place where it occurs, to the end of the first paragraph there shall be substituted the words " and ophthalmic opticians for securing the testing of sight by them. " .

- (4) In paragraph (c) of section 39 of that Act (regulations as to arrangements for general ophthalmic services) the words " and the ophthalmic or dispensing optician who is to supply the appliances " shall cease to have effect.
- (5) The following provisions of section 26 of the National Health Service (Scotland) Act 1978 (arrangements for provision of general ophthalmic services) shall cease to have effect—
  - (a) subsection (1)(b); and
  - (b) in subsection (2)(c), the words " and the ophthalmic or dispensing optician who is to supply the appliances ".
- (6) The amendments of the National Health Service Act 1977 contained in Part I of Schedule 1 to this Act shall have effect in consequence of subsections (3) and (4) above.
- (7) The amendments of the National Health Service (Scotland) Act 1978 contained in Part II of that Schedule shall have effect in consequence of subsection (5) above.

## **2 Fitting etc. of contact lenses**

- (1) The following section shall be inserted after section 20 of the Opticians Act 1958—

### **“20A Restrictions on fitting of contact lenses.**

- (1) Subject to the following provisions of this section, a person who is not a registered medical practitioner or registered optician shall not fit contact lenses.
  - (2) The foregoing subsection shall not apply to the fitting of contact lenses by a person recognised by a medical authority as a medical student, if carried out as part of a course of instruction approved by that authority for medical students or as part of an examination so approved.
  - (3) The General Optical Council may by rules exempt from subsection (1) of this section the fitting of contact lenses by persons training as opticians, or any prescribed class thereof, in such cases and subject to compliance with such conditions as may be prescribed by the rules.
  - (4) Rules under the last foregoing subsection shall not come into force until approved by order of the Privy Council, and the power to make any such order shall be exercisable by statutory instrument.
  - (5) Any person who contravenes subsection (1) of this section shall be liable on summary conviction to a fine of an amount not exceeding level 4 on the standard scale, as defined in section 75 of the Criminal Justice Act 1982.”
- (2) The following subsections shall be inserted after section 25(3) of that Act—
    - “(3A) The General Optical Council may make rules specifying requirements which registered opticians, enrolled bodies corporate or employees of registered opticians or enrolled bodies corporate must meet if they are to prescribe, fit or supply contact lenses.
    - (3B) The power conferred by subsection (3A) above is a power—

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- (a) in relation to registered opticians or employees of registered opticians or of enrolled bodies corporate, to specify qualifications which they must have ; and
- (b) in relation to enrolled bodies corporate, to specify conditions which they must satisfy.”.

*Other amendments of Opticians Act 1958*

### **3 Taking and use of titles**

(1) In section 22 of the Opticians Act 1958 (penalty for pretending to be registered, etc.) the words " or the title of optometrist " shall be inserted after the words " ophthalmic optician " in subsections (1)(a) and (2)(a).

(2) The following subsections shall be inserted after subsection (1) of that section—

“(1A) On any prosecution for an offence under subsection (1)(b) of this section the taking or use of the title of optician (either alone or in combination with any other words) by a person to whom this subsection applies is to be taken to imply that he is registered in one of the registers, but the implication may be rebutted if the defendant proves that he took or, as the case may be, used the title in circumstances where it would have been unreasonable for people to believe, in consequence of his taking or, as the case may be, use of it, that he was in fact registered in one of the registers.

(1B) Subject to the following subsection, subsection (1A) of this section applies to a person who carries on the business—

- (a) of selling optical appliances ; or
- (b) of supplying optical appliances in pursuance of arrangements made as mentioned in section 21(2) of this Act.

(1C) Subsection (1A) of this section does not apply to a person who sells or supplies optical appliances only as mentioned in section 21(3)(a) to (e) of this Act.”.

(3) The following subsections shall be inserted after subsection (2) of that section—

“(2A) On any prosecution for an offence under subsection (2)(b) of this section the taking or use of the title of optician (either alone or in combination with any other words) by a body corporate to which this subsection applies is to be taken to imply that it is enrolled in one of the lists, but the implication may be rebutted if the body corporate proves that it took or, as the case may be, used the title in circumstances where it would have been unreasonable for people to believe, in consequence of its taking or, as the case may be, use of it, that it was in fact enrolled in either of the lists.

(2B) Subject to the following subsection, subsection (2A) of this section applies to a body corporate which carries on the business—

- (a) of selling optical appliances ; or
- (b) of supplying optical appliances in pursuance of arrangements made as mentioned in section 21(2) of this Act.

(2C) Subsection (2A) of this section does not apply to a body corporate which sells or supplies optical appliances only as mentioned in section 21(3)(a) to (e) of this Act.”.

#### **4 Disciplinary provisions**

Schedule 2 to this Act—

- (a) Part I of which inserts new sections in the Opticians Act 1958 giving the Disciplinary Committee of the General Optical Council power—
    - (i) to suspend the registration of a registered optician or the enrolment of a body corporate carrying on business as an ophthalmic optician or a dispensing optician instead of erasing the name of the registered optician or the body corporate from the register or list; and
    - (ii) to impose financial penalties on registered opticians and on such bodies corporate instead of or in addition to erasure or suspension ;  
and
  - (b) Part II of which makes minor and consequential amendments to that Act in connection with the disciplinary powers of the Committee,
- shall have effect.

*National Health Service*

#### **5 Family Practitioner Committees**

- (1) The following section shall be substituted for section 10 of the National Health Service Act 1977—

**“10 Family Practitioner Committees.**

- (1) It is the duty of the Secretary of State by order to establish, in accordance with Part II of Schedule 5 to this Act, authorities to be called Family Practitioner Committees.
- (2) Family Practitioner Committees shall be known by such names, in addition to that title, as the order may specify.
- (3) When the Secretary of State makes an order under subsection (1) above establishing a Family Practitioner Committee, he shall also (either in the same or another instrument) make an order in relation to that Committee specifying a locality for which the Committee is to act.
- (4) The Secretary of State may by order—
  - (a) vary a Committee's locality ;
  - (b) abolish a Committee ;
  - (c) establish a new one.
- (5) The Secretary of State shall so exercise his powers under subsections (3) and (4) above as to secure—
  - (a) that the localities for which Family Practitioner Committees are at any time acting together comprise the whole of England and Wales; but
  - (b) that none of them extends both into England and into Wales.
- (6) Without prejudice to the generality of section 126(4) below, the power to make incidental or supplemental provision conferred by that subsection includes, in its application to orders under this section, power to make provision for the transfer of staff, property, rights and liabilities.

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- (7) It is the Secretary of State's duty before he makes an order under subsection (4) above to consult with respect to the order—
- (a) such bodies as he may recognise as representing officers who in his opinion are likely to be affected by the order; and
  - (b) such other bodies as he considers are concerned with the order.”.
- (2) In subsection (1) of section 15 of that Act (duty of Family Practitioner Committee) the following paragraph shall be substituted for paragraph (a)—
- “(a) to administer the arrangements made in pursuance of this Act for the provision of general medical services, general dental services, general ophthalmic services and pharmaceutical services for their locality ;”.
- (3) In Part III of Schedule 1 to the House of Commons Disqualification Act 1975 (disqualifying offices), in the entry beginning " Chairman in receipt of remuneration of any Regional Health Authority " after the words " District Health Authority " there shall be inserted the words " Family Practitioner Committee ".
- (4) Schedule 3 to this Act shall have effect.
- (5) The Secretary of State shall by order specify a date not later than 1st April 1985 on which Family Practitioner Committees established by orders under section 10(1) of the National Health Service Act 1977 are to begin to act for their localities.
- (6) Notwithstanding the substitution made by subsection (1) above, Family Practitioner Committees established or adopted by District Health Authorities shall continue to discharge their functions until the date specified by an order under subsection (5) above but shall cease to exist on that date.
- (7) The Secretary of State may by order make such repeals in or other modifications of any enactment or instrument as appear to him to be necessary or expedient in consequence of subsection (1), (2) or (4) above.
- (8) An order under subsection (5) or (7) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

## **6 Finance in National Health Service**

- (1) The following subsection shall be inserted after subsection (2) of section 97 of the National Health Service Act 1977 (means of meeting expenditure of health authorities)
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- “(2A) The date on which an allotment to an authority under subsection (1) or (2) above (including an allotment increasing or reducing an allotment previously made) takes effect is the date on which the authority are notified of its amount by the Secretary of State or, as the case may be, the Regional Health Authority.”.
- (2) The following subsection shall be inserted after subsection (2) of section 98 of that Act (accounts and audit)—
- “(2A) The accounts prepared and transmitted by a District Health Authority in pursuance of subsection (2) above shall include annual accounts of a Community Health Council if—
- (a) the Council is established for the Authority's district; or

- (b) the Authority is the prescribed Authority in relation to the Council.”.
- (3) The following subsection shall be inserted after subsection (1) of section 85 of the National Health Service (Scotland) Act 1978 (expenses)—
- “(1A) The date on which an allotment under subsection (1) above (including an allotment increasing or reducing an allotment previously made) takes effect is the date on which the body receiving the allotment are notified of its amount by the Secretary of State.”.
- (4) In subsection (11) of section 121 of the Mental Health Act 1983 (Mental Health Act Commission) for the words " sub-paragraphs (4) and (5) were omitted " there shall be substituted the words " the reference to a member in sub-paragraph (4) included a reference to the chairman ".

## 7 Professional remuneration in National Health Service

- (1) The following shall be inserted after section 43 of the National Health Service Act 1977—

### *“Remuneration for services*

#### **43A Regulations as to remuneration.**

- (1) Regulations shall make provision as to the remuneration to be paid to persons who provide general medical services, general dental services, general ophthalmic services or pharmaceutical services under this Part of this Act.
- (2) Subject to sections 29(4) and 35(2) above, remuneration under the regulations may consist of payments by way of—
- salary;
  - fees;
  - allowances;
  - reimbursement (in full or in part) of expenses incurred or expected to be incurred in connection with the provision of the services,
- and the regulations may provide that the remuneration shall be determined from time to time by such authority as may be specified.
- (3) If section 10 of the National Health Service Act 1966 is brought into operation, upon the date of its commencement the words " section 10 of the National Health Service Act 1966 and section" shall be substituted for the words " sections 29(4) and " in subsection (2) above.”.
- (2) The following shall be inserted after section 28 of the National Health Service (Scotland) Act 1978—

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*“Remuneration for services*

**28A Regulations as to remuneration.**

- (1) Regulations shall make provision as to the remuneration to be paid to persons who provide general medical services, general dental services, general ophthalmic services or pharmaceutical services under this Part of this Act.
- (2) Subject to sections 19(3) and 25(3), remuneration under the regulations may consist of payments by way of—
  - (a) salary;
  - (b) fees;
  - (c) allowances;
  - (d) reimbursement (in full or in part) of expenses incurred or expected to be incurred in connection with the provision of the services,
 and the regulations may provide that the remuneration shall be determined from time to time by such authority as may be specified.
- (3) If section 10 of the National Health Service Act 1966 is brought into operation, upon the date of its commencement the words " section 10 of the National Health Service Act 1966 and section " shall be substituted for the words " sections 19(3) and " in subsection (2) above.”.
- (3) The following section shall be added after each of the sections inserted by subsections (1) and (2) above, as section 43B of the National Health Service Act 1977 and section 28B of the National Health Service (Scotland) Act 1978—

*“Remuneration—supplementary.*

- (1) The authority specified in regulations under the preceding section may be the Secretary of State or some other person or persons and is referred to in this section as a " determining authority ".
- (2) The power conferred by the preceding section includes power to make regulations providing for a determination in more than one stage and by more than one determining authority.
- (3) Regulations under the preceding section shall provide—
  - (a) that a determination may be made with respect either to any of the descriptions of services mentioned in subsection (1) of the preceding section generally or to any category of services falling within such a description ;
  - (b) that, before making such a determination, the determining authority shall consult—
    - (i) a prescribed body established to provide advice in connection with the matters to be determined ; or
    - (ii) an organisation appearing to the Secretary of State to be representative of persons to whose remuneration the determination would relate,
 or both such a body and such an organisation.
- (4) Regulations under the preceding section may provide—



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- (a) that a determination such as is mentioned in subsection (3) above shall have effect in relation to remuneration in respect of a period beginning on or after a date specified in the determination, which may be the date of the determination or an earlier or later date, but may be an earlier date only if, taking the determination as a whole, it is not detrimental to the persons to whose remuneration it relates ; and
  - (b) that any such determination which does not specify such a date shall have effect in relation to remuneration in respect of a period beginning—
    - (i) if it is required to be published, on the date of publication;
    - (ii) if it is not so required, on the date on which it is made.
- (5) Regulations under the preceding section may provide—
- (a) for determinations of the remuneration of particular persons or descriptions of persons for particular items of service or in particular circumstances;
  - (b) that a determining authority shall have a discretion, when making a determination by virtue of this subsection,—
    - (i) as to the amount of remuneration to be paid; and
    - (ii) as to the persons to whom and conditions on which it is to be paid; and
  - (c) that a determination made by virtue of this subsection may be revised—
    - (i) to correct an error; or
    - (ii) where it appears to the determining authority that it was made in ignorance of or under a mistake as to a relevant fact.
- (6) Regulations under the preceding section may provide—
- (a) that determinations may be made by reference to any of the following—
    - (i) rates or conditions of remuneration of any persons or any descriptions of persons which are fixed or determined, or to be fixed or determined, otherwise than by way of a determination under the regulations;
    - (ii) scales, indices or other data of any description specified in the regulations; and
  - (b) that any determination which in accordance with regulations made by virtue of paragraph (a)(ii) above falls to be made by reference to a scale or an index or to any other data may be made not only by reference to that index or scale or those data in the form current at the time of the determination but also by reference to the scale, index or data in any subsequent form attributable to amendment or revision taking effect after that time or to any other cause.
- (7) Any determination under regulations under the previous section shall be made after taking into account all the matters which are considered to be relevant by the determining authority and, without prejudice to the generality of this subsection, such matters may include—
- (a) the amount or estimated amount of expenses (taking into account any discounts) incurred in the past or likely to be incurred in the future (whether or not by persons to whose remuneration the determination

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will relate) in connection with the provision of services of a kind to which the determination will relate;

- (b) the amount or estimated amount of any remuneration paid or likely to be paid to persons providing such services;
  - (c) the amount or estimated amount of any other payments or repayments or other benefits received or likely to be received by any such persons;
  - (d) the extent to which it is desirable to encourage the provision of particular descriptions of services either generally or in particular localities;
  - (e) the desirability of promoting services which are—
    - (i) economic and efficient; and
    - (ii) of an appropriate standard.”.
- (4) Any determination in relation to remuneration in respect of services under Part II of the National Health Service Act 1977 or Part II of the National Health Service (Scotland) Act 1978 which was made—
- (a) before the passing of this Act; or
  - (b) after it but at a time before the coming into force of a provision inserted by this section,

shall be deemed to be validly made if regulations authorising such a determination could have been made had that provision been in force at that time.

## **8 Increase in borrowing powers of General Practice Finance Corporation**

In section 6(3) of the National Health Service Act 1966 (which limits the aggregate amount which may be outstanding in respect of the principal of money borrowed by the General Practice Finance Corporation to £40 million or such greater amount not exceeding £100 million as the Secretary of State may by order specify) for the words "£40 million" and "£100 million" there shall be substituted, respectively, the words "£150 million" and "£250 million".

## **9 Holidays for patients etc.**

- (1) The following subsection shall be added after section 5(2A) of the National Health Service Act 1977—

“(2B) The Secretary of State's functions may be performed outside England and Wales, in so far as they relate—

- (a) to holidays for patients ;
  - (b) to the transfer of patients to or from Scotland, Northern Ireland, the Isle of Man or the Channel Islands; or
  - (c) to the return of patients who have received treatment in England and Wales to countries or territories outside the British Islands.”.
- (2) The following section shall be added after section 99 of the National Health Service (Scotland) Act 1978—

### **“99A Holidays for patients etc.**

The Secretary of State's functions may be performed outside Scotland, in so far as they relate—

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- (a) to holidays for patients;
- (b) to the transfer of patients to or from England, Wales, Northern Ireland, the Isle of Man or the Channel Islands ; or
- (c) to the return of patients who have received treatment in Scotland to countries or territories outside the British Islands.”.

*Treatment in European Economic Community*

**10 Reimbursement of cost of medical and maternity treatment in member States of European Economic Community**

- (1) The Secretary of State may pay to a competent institution in a member State the cost of treatment to which this section applies provided by that institution under the social security scheme of that State for a person who, at the relevant time—
  - (a) was ordinarily resident in Great Britain ; and
  - (b) was a national of a member State or a dependant of such a national.
- (2) The Secretary of State may only make a payment under this section of the cost of treatment—
  - (a) which is given to a person during a temporary stay in a member State because his condition required immediate treatment;
  - (b) which—
    - (i) is given in continuance of treatment commenced in the United Kingdom ; and
    - (ii) follows an agreement between the Secretary of State and the person treated that, on his subsequent return to, or transfer of residence to, the member State, his treatment for the same condition would be at the expense of the Secretary of State for a period agreed with the Secretary of State ; or
  - (c) which is given following an agreement between the Secretary of State and the person treated that he should go to the member State to receive treatment to which this section applies appropriate to his condition.
- (3) This section applies—
  - (a) to treatment for sickness or injury ; and
  - (b) to treatment in connection with pregnancy or maternity,which is given to a person to whom the 1971 Community regulation did not apply at the relevant time.
- (4) In this section—
  - " competent institution " has the meaning assigned to it by the 1971 Community regulation ;
  - " the 1971 Community regulation " means Council Regulation (EEC) No. 1408/71 as it has effect from time to time; and
  - " the relevant time " means the time when treatment was given.