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STATUTORY RULES OF NORTHERN IRELAND

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**2007 No. 436**

**General Ophthalmic Services  
Regulations (Northern Ireland) 2007**

**Citation and commencement**

1. These Regulations may be cited as the General Ophthalmic Services Regulations (Northern Ireland) 2007 and shall come into operation on 9th November 2007.

**Commencement Information**

**II** Reg. 1 in operation at 9.11.2007, see [reg. 1](#)

**Interpretation**

2. In these Regulations —

“the Charges Regulations” means the Charges for Drugs and Appliances Regulations (Northern Ireland) 1997<sup>(1)</sup>;

[<sup>F1</sup>“the Disciplinary Procedures Regulations” means the Health and Social Care (Disciplinary Procedures) Regulations (Northern Ireland) 2016]

“the Order” means the Health and Personal Social Services (Northern Ireland) Order 1972;

“the Remission Regulations” means the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 2004<sup>(2)</sup>;

[<sup>F2</sup>“the 2003 Order” means the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003;]

“authority” has the meaning given to it by the Children (Northern Ireland) Order 1995<sup>(3)</sup>;

[<sup>F3</sup>“bankruptcy restrictions order” means an order made under Schedule 2A to the Insolvency (Northern Ireland) Order 1989 or Schedule 4A to the Insolvency Act 1986;]

<sup>F4</sup>  
...

“capital limit” means the amount prescribed for the purposes of section 130(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992<sup>(4)</sup> as it applies to income support;

“child tax credit” means child tax credit under section 8 of the Tax Credits Act 2002<sup>(5)</sup>;

“Committee” means the Ophthalmic Committee, constituted under regulation 3;

“complex appliance” means an optical appliance at least one lens of which —

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(1) S.R. 1997 No. 382

(2) S.R. 2004 No. 91

(3) S.I. 1995/755 (N.I. 2)

(4) 1992 c.7; regulation 45 of the Income Support (General) Regulations (Northern Ireland) 1987 (S.R. 1987 No. 459) as amended by regulation 2(4) of S.R. 2005 No. 424 has prescribed the amount of £16,000 as the capital limit

(5) 2002 c. 21

- (a) has a power in any one meridian of plus or minus 10 or more dioptries, or
- (b) is a prism controlled bifocal lens;

“contractor” means a person who has undertaken to provide general ophthalmic services and whose name is included in the ophthalmic list;

[<sup>F2</sup>“day care setting” has the same meaning as in Article 2 of the 2003 Order;]

[<sup>F5</sup>“debt relief restrictions order” means an order made under Schedule 2ZB to the Insolvency (Northern Ireland) Order 1989, or Schedule 4ZB to the Insolvency Act 1986;]

“deputy” means an ophthalmic medical practitioner or optician, who is included in the ophthalmic list and assists in the provision of general ophthalmic services;

“director” means —

- (a) a director of a body corporate; or
- (b) a member of the body of persons controlling a body corporate;

“disability element” means the disability element of working tax credit as specified in section 11(3) of the Tax Credits Act 2002;

“doctor” means a medical practitioner;

“eligible person” means a person who, in accordance with regulation 16, may have his sight tested under general ophthalmic services;

<sup>F6</sup> ...

[<sup>F7</sup>“Family Practitioner Services Independent Appeal Panel” means the body established under regulation 3 of the Health and Social Care (Family Practitioner Services Independent Appeal Panel) Regulations (Northern Ireland) 2022;]

“general ophthalmic services” means the services which a contractor must provide pursuant to paragraph 14 of the terms of service;

“income-based jobseekers allowance” has the meaning given to it by Article 3(4) of the Jobseekers (Northern Ireland) Order 1995(<sup>6</sup>);

“income support” means income support under Part VII of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and includes personal expenses addition, special transitional addition and transitional addition as defined in regulation 2(1) of the Income Support (Transitional) Regulations (Northern Ireland) 1987(<sup>7</sup>);

“juvenile justice centre” has the meaning given by Article 51(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998(<sup>8</sup>);

“Local Optical Committee” means the committee recognised by the Department under Article 55 of the Order;

[<sup>F2</sup>“medical card” means a card issued to a person by the RBSO in a form approved by the Department for the purpose of enabling that person to obtain or establish a title to receive primary medical services, including maternity medical services, general dental services or general ophthalmic services;]

“mobile practice” means a contractor who has made arrangements with [<sup>F8</sup>the Department] to provide mobile services and does not have practice premises in its area;

[<sup>F9</sup>“mobile services” means general ophthalmic services provided at—

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(6) S.I. 1995/2705 (N.I.15); Article 3(4) was amended by paragraph 3(4)(a) of Schedule 7 to the Welfare and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))

(7) S.R. 1987 No. 460

(8) S.I. 1998/1504 (N.I. 9)

- (a) a day care setting;
- (b) a nursing home;
- (c) a residential care home; or
- (d) 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 [<sup>F8</sup>the Department] to provide;]

“notice of entitlement” means a notice issued under regulation 8 of the Remission Regulations for the purposes of remission of charges under the Order;

[<sup>F2</sup>“nursing home” has the same meaning as in Article 2 of the 2003 Order;]

“ophthalmic hospital” includes an ophthalmic department of a hospital;

“ophthalmic list” means the list prepared by the Agency under regulation 8;

“ophthalmic medical practitioner” means a doctor whose qualifications have in accordance with regulation 6 or regulation 7 been approved as being prescribed qualifications;

“Ophthalmic Qualifications Committee” means the Advisory Committee appointed under Article 25 of the Order after consultation with <sup>F10</sup>... such organisation as may be recognised by the Department as representing medical practitioners, 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 an ophthalmic optician;

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

“pension credit guarantee credit” shall be construed in accordance with sections 1 and 2 of the State Pension Credit Act (Northern Ireland) 2002<sup>(9)</sup>;

<sup>F6</sup>  
...

“qualifications” includes qualifications as to experience;

“qualifying full-time education” has the meaning given to it by Article 62(4) of the Order;

“relevant income” has the same meaning as in section 7(3) of the Tax Credits Act 2002;

[<sup>F2</sup>“residential care home” has the same meaning as in Article 2 of the 2003 Order;]

“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;

“suspended by direction of the Tribunal” means suspended as respects the provision of general ophthalmic services to patients by a direction of the Tribunal made pursuant to paragraph 9(3) or paragraph 10(1) of Schedule 11 to the Order or to any provisions in force in England, Scotland or Wales corresponding to those provisions;

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

“the Statement” has the meaning assigned to it in regulation 12(1);

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

#### Textual Amendments

- F1** Words in [reg. 2](#) inserted (1.4.2016) by [The Health and Social Care \(Disciplinary Procedures\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/104\)](#), regs. 1(1), **14(3)(a)**
- F2** Words in [reg. 2](#) inserted (3.2.2014) by [The General Ophthalmic Services \(Amendment\) Regulations \(Northern Ireland\) 2014 \(S.R. 2014/2\)](#), regs. 1(1), **2(4)**
- F3** Words in [reg. 2](#) inserted (21.4.2015) by [The Insolvency \(Northern Ireland\) Order 2005 \(Consequential Amendments\) Order \(Northern Ireland\) 2015 \(S.R. 2015/159\)](#), art. 1, **Sch. para. 44(2)**
- F4** Words in [reg. 2](#) omitted (1.4.2022) by virtue of [The Health and Social Care Act \(Northern Ireland\) 2022 \(General Dental and Ophthalmic Services Consequential and Miscellaneous Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/104\)](#), regs. 1(1), **4(2)(a)**
- F5** Words in [reg. 2](#) inserted (7.3.2016) by [The Debt Relief Act \(Northern Ireland\) 2010 \(Consequential Amendments\) Order \(Northern Ireland\) 2016 \(S.R. 2016/108\)](#), art. 1, **Sch. para. 51(2)**
- F6** Words in [reg. 2](#) omitted (1.4.2009) by virtue of [The General Ophthalmic Services \(Amendment No. 2\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/152\)](#), regs. 1(1), **2**
- F7** Words in [reg. 2](#) inserted (1.4.2022) by [The Health and Social Care \(Family Practitioner Services Independent Appeal Panel\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/109\)](#), reg. 1, **Sch. para. 23(1)**
- F8** Words in [reg. 2](#) substituted (1.4.2022) by [The Health and Social Care Act \(Northern Ireland\) 2022 \(General Dental and Ophthalmic Services Consequential and Miscellaneous Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/104\)](#), regs. 1(1), **4(2)(b)**
- F9** Words in [reg. 2](#) substituted (3.2.2014) by [The General Ophthalmic Services \(Amendment\) Regulations \(Northern Ireland\) 2014 \(S.R. 2014/2\)](#), regs. 1(1), **2(3)**
- F10** Words in [reg. 2](#) omitted (1.4.2022) by virtue of [The Health and Social Care Act \(Northern Ireland\) 2022 \(General Dental and Ophthalmic Services Consequential and Miscellaneous Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/104\)](#), regs. 1(1), **4(2)(c)**

#### Commencement Information

- I2** Reg. 2 in operation at 9.11.2007, see [reg. 1](#)

### Constitution of Ophthalmic Committee

3. The provisions set out in Schedule 2 shall apply to the Committee which shall be appointed by the Agency for the purpose of advising and assisting the Agency in the duties assigned to it by these regulations.

#### Commencement Information

- I3** Reg. 3 in operation at 9.11.2007, see [reg. 1](#)

### Delegation of duties

4. The Committee may delegate to an officer of the Agency such of its duties with respect to general ophthalmic services as it thinks fit.

#### Commencement Information

- I4** Reg. 4 in operation at 9.11.2007, see [reg. 1](#)

## Qualifications of ophthalmic medical practitioners

5.—(1) The prescribed qualifications which a doctor is to possess for the purposes of Article 62 of the Order (arrangements for general ophthalmic services) are that he has (at the date of consideration of his application under regulation 6) recent experience and either—

- (a) has—
  - (i) held an appointment in the health services, otherwise than under Part VI of the Order, with the status of consultant ophthalmologist; or an appointment for a period of not less than two years of equivalent status as an ophthalmic surgeon or assistant ophthalmic surgeon on the staff of an approved ophthalmic hospital; and
  - (ii) had adequate experience; or
- (b) has —
  - (i) held an ophthalmic appointment or an appointment in an approved ophthalmic hospital, for a period totalling not less than two years, including therein tenure for a period of not less than 6 months of a residential appointment or an appointment with duties comparable with those of a residential appointment (provided that such tenure for 6 months of a residential or comparable appointment shall not be required in the case of a doctor who has been fully registered for at least seven years and whose experience is such as to make that requirement unnecessary);
  - (ii) obtained the Membership of the Royal College of Ophthalmologists, or any approved higher degree or qualification, and
  - (iii) had adequate experience.

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

### Commencement Information

**I5** Reg. 5 in operation at 9.11.2007, see [reg. 1](#)

## Approval of qualifications of ophthalmic medical practitioners

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

(2) The Ophthalmic Qualifications Committee shall consider the doctor’s application and within two months after the date of the application shall inform the Department of their decision.

(3) If the Ophthalmic Qualifications Committee is satisfied that the doctor possesses the qualifications prescribed by regulation 5, he shall be an ophthalmic medical practitioner and the Department shall notify him accordingly.

(4) Notwithstanding the provisions of regulation 5 and of paragraph (1) a doctor who has the prescribed qualifications for the purposes of providing general ophthalmic services in England under the National Health Service Act 1977<sup>(10)</sup>, in Scotland under the National Health Service (Scotland) Act 1978<sup>(11)</sup> or in Wales under the National Health Service (Wales) Act 2006<sup>(12)</sup>, shall be an ophthalmic medical practitioner.

(5) For the purposes of paragraph (2) the date of the application shall be —

<sup>(10)</sup> 1977 c.49

<sup>(11)</sup> 1978 c.29

<sup>(12)</sup> 2006 c.42

- (a) the date upon which a completed application with all necessary supporting details is received by the Ophthalmic Qualifications Committee; or
- (b) if the Ophthalmic Qualifications Committee require any further particulars from the applicant, the date on which the Ophthalmic Qualifications Committee receive all the particulars which it requires.

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**Commencement Information**

**I6** Reg. 6 in operation at 9.11.2007, see [reg. 1](#)

**Appeals against decisions of Ophthalmic Qualifications Committee**

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

(2) The Department 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 it 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 it to be interested in the appeal; and
- (d) inform the appellant, the Ophthalmic Qualifications Committee, the Agency 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 fourteen 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 Department 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 such 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 5 it shall so determine and accordingly he shall be an ophthalmic medical practitioner.

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

#### Commencement Information

**I7** Reg. 7 in operation at 9.11.2007, see [reg. 1](#)

### Ophthalmic list

**8.—(1)** The Agency shall from information obtained from [<sup>F11</sup>the Department] keep a list called “the ophthalmic list” of those persons who, pursuant to the provisions of regulation 9 have undertaken to provide general ophthalmic services and who are not disqualified from inclusion by virtue of the provisions of paragraphs 5, 7, 9(5), 10(1) or 12(2) of Schedule 11 to the Order.

(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—
  - (i) his professional registration number; and
  - (ii) the date that his name was included in the ophthalmic list;
- (b) except in the case of a mobile practice, the addresses of any places <sup>F12</sup>... 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;
- (d) the names of every other ophthalmic medical practitioner or optician who is regularly engaged as a deputy, director or employee in assisting 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 [<sup>F13</sup>the Department] to provide mobile services—
  - (i) that fact,
  - (ii) the address of any location 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 Agency shall send a copy of the ophthalmic list to the Department<sup>F14</sup>... and the Local Optical Committee, and at intervals of not more than three months shall notify each of them of any alteration made in that list.

(5) Copies of the ophthalmic list shall be made available for inspection at the offices of <sup>F15</sup>... the Agency and at such other places as appear to the Agency to be convenient for informing all persons interested.

#### Textual Amendments

**F11** Words in [reg. 8\(1\)](#) substituted (1.4.2022) by virtue of [The Health and Social Care Act \(Northern Ireland\) 2022 \(General Dental and Ophthalmic Services Consequential and Miscellaneous Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/104\)](#), [regs. 1\(1\), 4\(3\)](#)



- F12** Words in reg. 8(3)(b) omitted (1.4.2022) by virtue of The Health and Social Care Act (Northern Ireland) 2022 (General Dental and Ophthalmic Services Consequential and Miscellaneous Amendment) Regulations (Northern Ireland) 2022 (S.R. 2022/104), regs. 1(1), **4(4)(a)**
- F13** Words in reg. 8(3)(e) substituted (1.4.2022) by The Health and Social Care Act (Northern Ireland) 2022 (General Dental and Ophthalmic Services Consequential and Miscellaneous Amendment) Regulations (Northern Ireland) 2022 (S.R. 2022/104), regs. 1(1), **4(3)**
- F14** Words in reg. 8(4) omitted (1.4.2022) by virtue of The Health and Social Care Act (Northern Ireland) 2022 (General Dental and Ophthalmic Services Consequential and Miscellaneous Amendment) Regulations (Northern Ireland) 2022 (S.R. 2022/104), regs. 1(1), **4(4)(b)**
- F15** Words in reg. 8(5) omitted (1.4.2022) by virtue of The Health and Social Care Act (Northern Ireland) 2022 (General Dental and Ophthalmic Services Consequential and Miscellaneous Amendment) Regulations (Northern Ireland) 2022 (S.R. 2022/104), regs. 1(1), **4(4)(c)**

#### Commencement Information

- I8** Reg. 8 in operation at 9.11.2007, see [reg. 1](#)

#### Application for inclusion in ophthalmic list

9.—(1) An ophthalmic medical practitioner or optician who wishes to be included in the ophthalmic list shall make an application to the [<sup>F16</sup>Department on a form approved by and available from the Department] and the application shall include:

- (a) an undertaking to provide general ophthalmic services and to comply with the terms of service and if wishing 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;
- (b) the information specified in regulation 8(3); and
- (c) a declaration that he is not suspended by direction of the Tribunal.

(2) A contractor shall within fourteen days of any change or addition affecting the entries which the ophthalmic list is required to contain in relation to him notify [<sup>F17</sup>the Department] accordingly.

#### Textual Amendments

- F16** Words in reg. 9(1) substituted (1.4.2022) by The Health and Social Care Act (Northern Ireland) 2022 (General Dental and Ophthalmic Services Consequential and Miscellaneous Amendment) Regulations (Northern Ireland) 2022 (S.R. 2022/104), regs. 1(1), **4(5)**
- F17** Words in reg. 9(2) substituted (1.4.2022) by The Health and Social Care Act (Northern Ireland) 2022 (General Dental and Ophthalmic Services Consequential and Miscellaneous Amendment) Regulations (Northern Ireland) 2022 (S.R. 2022/104), regs. 1(1), **4(3)**

#### Commencement Information

- I9** Reg. 9 in operation at 9.11.2007, see [reg. 1](#)

#### Withdrawal from ophthalmic list

10.—(1) Subject to paragraphs (2) and (3), where a contractor gives notice in writing to the [<sup>F18</sup>Department] that he wishes to withdraw from the ophthalmic list, his name shall be removed from that list at the expiration of three months from and including the date of that notice or of such shorter period as the [<sup>F18</sup>Department] may agree.



(2) If representations are made to the Tribunal that the continued inclusion of a contractor in the ophthalmic list would be prejudicial to the efficiency of the general ophthalmic services, he shall not, except with the consent of the Department and subject to such conditions, if any, as the Department may impose, be entitled to have his name removed from the ophthalmic list pending the determination of the proceedings on those representations.

(3) The [F18Department] 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.

#### Textual Amendments

**F18** Word in [reg. 10](#) substituted (1.4.2022) by [The Health and Social Care Act \(Northern Ireland\) 2022 \(General Dental and Ophthalmic Services Consequential and Miscellaneous Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/104\)](#), [regs. 1\(1\), 4\(6\)](#)

#### Commencement Information

**I10** Reg. 10 in operation at 9.11.2007, see [reg. 1](#)

### Removal from ophthalmic list

**11.**—(1) Where [F19the Department] has determined that a contractor—

- (a) has died,
  - (b) in the case of a body corporate, has been dissolved or ceased trading, or
  - (c) has otherwise ceased from being a doctor, an ophthalmic medical practitioner or optician,
- it shall remove his name from the ophthalmic list and except in a case to which subparagraph (a) applies, notify him immediately that he has been removed from the list.

(2) Where [F19the Department] determines in accordance with the following provisions of this regulation that a contractor whose name has been included for the preceding six months in the ophthalmic list has not during that period provided general ophthalmic services for persons in the area it shall remove his name from the ophthalmic list.

(3) In calculating the period of six months referred to in paragraph (2), [F19the Department] shall disregard any period during which the contractor provided no general ophthalmic services by reason only that he was suspended by direction of the Tribunal.

(4) Before making a determination under paragraph (2) relating to a contractor [F19the Department] shall —

- (a) give him twenty eight days' notice of its intention to do so;
- (b) afford him an opportunity to make representations to [F19the Department] in writing or, if he so wishes, orally to a sub-committee which shall be appointed by [F19the Department] for the purpose and at least one third of the members of which shall be from a panel nominated by the Local Optical Committee;
- (c) consult the Local Optical Committee.

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

(6) No determination under this regulation 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; or
- (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.

(7) 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.

#### Textual Amendments

**F19** Words in [reg. 11](#) substituted (1.4.2022) by [The Health and Social Care Act \(Northern Ireland\) 2022 \(General Dental and Ophthalmic Services Consequential and Miscellaneous Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/104\)](#), regs. 1(1), **4(3)**

#### Commencement Information

**I11** Reg. 11 in operation at 9.11.2007, see [reg. 1](#)

### The Statement

**12.**—(1) The Department shall, after consultation with such organisations as appear to it 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 the Agency 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 a body corporate.
- (2) Any such determination —
- (a) shall be published;
  - (b) may be amended by the Department in whole or in part, after consultation with those organisations referred to in paragraph (1).

#### Commencement Information

**I12** Reg. 12 in operation at 9.11.2007, see [reg. 1](#)

### Terms of Service

**13.** The arrangements for the provision of general ophthalmic services which under Article 62 of the Order, [<sup>F20</sup>the Department] is required to make, shall incorporate the terms of service and the Statement.

#### Textual Amendments

**F20** Words in [reg. 13](#) substituted (1.4.2022) by [The Health and Social Care Act \(Northern Ireland\) 2022 \(General Dental and Ophthalmic Services Consequential and Miscellaneous Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/104\)](#), regs. 1(1), **4(3)**

### Commencement Information

**I13** Reg. 13 in operation at 9.11.2007, see [reg. 1](#)

### Payment for services

**14.**—(1) The Agency shall make payments in accordance with the Statement.

(2) Where in accordance with regulation 18(4) the Agency 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.

(3) Where the Agency 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 Department on the application of the Agency directs otherwise, draw the overpayment to the attention of the contractor and —

(a) where he admits the overpayment; or

[<sup>F21</sup>(b) where he does not admit the overpayment but, the matter having been investigated under [<sup>F22</sup>regulation 2(5) of the Disciplinary Procedures Regulations], <sup>F23</sup>... the Department 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.

(4) 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.

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

### Textual Amendments

**F21** Reg. 14(3)(b) substituted (24.11.2014) by [The Health and Social Care \(Disciplinary Procedures\) Regulations \(Northern Ireland\) 2014 \(S.R. 2014/267\)](#), regs. 1(1), **16**

**F22** Words in [reg. 14\(3\)\(b\)](#) substituted (1.4.2016) by [The Health and Social Care \(Disciplinary Procedures\) Regulations \(Northern Ireland\) 2016 \(S.R. 2016/104\)](#), regs. 1(1), **14(3)(b)**

**F23** Words in [reg. 14\(3\)\(b\)](#) omitted (1.4.2022) by virtue of [The Health and Social Care Act \(Northern Ireland\) 2022 \(General Dental and Ophthalmic Services Consequential and Miscellaneous Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/104\)](#), regs. 1(1), **4(7)**

### Commencement Information

**I14** Reg. 14 in operation at 9.11.2007, see [reg. 1](#)

### Payments to an ophthalmic medical practitioner or optician suspended by direction of the Tribunal

**15.**—(1) The Agency shall make payments to any ophthalmic medical practitioner or optician who is suspended by direction of the Tribunal in accordance with the Department's determination for the time being in operation in relation to such payments.

(2) The Department shall make the determination in accordance with paragraphs (3) and (4) after consultation with the organisations referred to in regulation 12(1) and it shall be published with the Statement there referred to.

(3) Subject to paragraph (4), the Department'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 his remuneration by virtue of regulation 12 during the 12 months ending with the direction for suspension by the Tribunal.

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

(5) Regulation 12(2) shall apply to determinations under this regulation as it applies to determinations under that regulation.

(6) Regulation 14(3) shall apply to payments made under this regulation as it applies to payments made under that regulation.

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**Commencement Information**

**I15** Reg. 15 in operation at 9.11.2007, see [reg. 1](#)

**Sight Tests – eligibility**

**16.**—(1) A person may have his sight tested under the 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;
  - (c) a person who is aged 60 years or more;
  - (d) a person whose resources are treated in accordance with paragraph (2) as being less than, or equal to, his requirements;
  - (e) a person who requires to wear a complex appliance;
  - (f) a person who is identified as being blind or partially sighted under section 1 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978(13);
  - (g) a person who has been diagnosed as suffering from diabetes or glaucoma or has been advised by an ophthalmologist that he is predisposed to the development of glaucoma;
  - (h) 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) his income resources as calculated in accordance with Part IV of, and Schedule 1 to, the Remission Regulations for the purposes of remission of charges under the Order are less than or equal to 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 Charges Regulations and his capital resources as so calculated do not exceed the capital limit;
  - (d) he is a member of the same family as a person described in sub-paragraph (c);

- (e) he is in receipt of an income-based jobseeker's allowance;
- (f) he is a member of the same family as a person described in sub-paragraph (e);
- (g) 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 relevant 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 [<sup>F24</sup>£15,276;]
- (h) he is a person in respect of whom there is a current notice of entitlement;
- (i) he is in receipt of pension credit guarantee credit; or
- (j) he is a member of the same family as a person described in sub-paragraph (i).

(3) In paragraph (1)(g) “ophthalmologist” means a doctor whose name is included in the register of specialists kept by the General Medical Council under Article 13(1) of the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003<sup>(14)</sup> and in respect of whom that register indicates his speciality to be ophthalmology.

(4) In paragraph (2) –

- (a) in sub-paragraphs (b), (d) and (j) “family” has the meaning assigned to it by section 133(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992<sup>(15)</sup>, as it applies to income support;
- (b) in sub-paragraph (f), “family” has the meaning assigned to it by Article 2(2) of the Jobseekers (Northern Ireland) Order 1995<sup>(16)</sup>; and
- (c) in sub-paragraph (g), “family” has the meaning assigned to it by regulation 2(2) of the Tax Credits (Definition and Calculation of Income) Regulations 2002<sup>(17)</sup>.

#### Textual Amendments

**F24** Sum in Reg. 16(2)(g)(ii) substituted (1.4.2009) by [The General Ophthalmic Services \(Amendment No. 2\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/152\)](#), regs. 1(1), **3**

#### Commencement Information

**I16** Reg. 16 in operation at 9.11.2007, see [reg. 1](#)

### Sight tests – applications

**17.—(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 Agency and shall contain a written declaration signed by the applicant to the effect that he is an eligible person.

<sup>(14)</sup> S.I. 2003/1250

<sup>(15)</sup> 1992 c. 7

<sup>(16)</sup> S.I. 1995/2705 (N.I. 15)

<sup>(17)</sup> S.I. 2002/2006

- (3) In addition, a person who is an eligible person—
- (a) but only by virtue of regulation 16(1)(d) and (2)(c) or (d) shall show to the contractor a current notice of entitlement;
  - (b) but only by virtue of regulation 16(1)(e), 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 paragraph 16(1)(g), shall on a form provided for that purpose to contractors by the Agency provide the contractor with the name and address of his doctor and give his consent to the Agency 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 16(1)(d), 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;
  - <sup>F25</sup>(b) ensure that particulars of the patient, including the patient's name and address, sex, date of birth and Health and Care number as shown on the patient's medical card, and the approximate date of the last testing, if any, of the patient's 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 his behalf, for not being able to leave home unaccompanied.
- (7) The contractor may appoint a member of his staff to carry out the requirements placed on him by paragraph (4)(a)(i) and (ii) on his behalf, provided that he ensures that person is given instruction by him to enable him to fulfil the requirements on his behalf.

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**Textual Amendments**

**F25** Reg. 17(4)(b) substituted (3.2.2014) by [The General Ophthalmic Services \(Amendment\) Regulations \(Northern Ireland\) 2014 \(S.R. 2014/2\)](#), regs. 1(1), 3

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**Commencement Information**

**I17** Reg. 17 in operation at 9.11.2007, see [reg. 1](#)

**Sight test treated as a test under general ophthalmic services**

**18.—(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 (e) of regulation 16(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 (c) or (d) of regulation 16(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 Order for the purposes of regulation 8(1)(a) of the Health and Personal Social Services (Optical Charges and Payments) Regulations (Northern Ireland) 1997(18) as well as for the purposes specified in Article 62(8) of the Order.

(3) For the purposes of paragraph (1)(b) a person is shown to fall within a description specified in sub-paragraph (c) or (d) of regulation 16(2) if he presents to the Agency a notice of entitlement which is effective for a period which includes the date of the testing of sight or 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 Order the Agency 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.

#### **Commencement Information**

**I18** Reg. 18 in operation at 9.11.2007, see [reg. 1](#)

### **School children**

**19.**—(1) Without prejudice to their right to obtain general ophthalmic services under and in accordance with the foregoing regulations, the provisions of this regulation shall have effect in relation to persons for whom medical inspection or treatment is provided under or by virtue of the provisions of Article 9 of the Order.

(2) In this regulation the expression “appointed ophthalmic medical practitioner” means an ophthalmic medical practitioner whose name is on the ophthalmic list and who has been appointed by [<sup>F26</sup>the Department] to undertake sight testing for school children as may be required by this regulation. The expression “medical officer” means a medical practitioner, whose name is not included in the ophthalmic list, who has been appointed by [<sup>F26</sup>the Department] to undertake the medical inspection or medical supervision of school children under Article 9 of the Order.

(3) Where on examination of the eyes of a pupil, a medical officer is of the opinion that the pupil needs to have his sight tested, he shall notify his opinion to the parent, guardian or other person having charge of the pupil. The notification shall indicate that the parent, guardian or other person in charge of the pupil may arrange to have the sight test carried out —

- (a) by any ophthalmic medical practitioner or any optician on the ophthalmic list, or
- (b) where the services of an appointed ophthalmic medical practitioner are available, by such appointed ophthalmic medical practitioner.



### Textual Amendments

**F26** Words in [reg. 19\(2\)](#) substituted (1.4.2022) by [The Health and Social Care Act \(Northern Ireland\) 2022 \(General Dental and Ophthalmic Services Consequential and Miscellaneous Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/104\)](#), regs. 1(1), **4(3)**

### Commencement Information

**I19** Reg. 19 in operation at 9.11.2007, see [reg. 1](#)

## Cases of disability

**20.**—(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 (Northern Ireland) Order 1995(**19**) 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 or any person employed by a contractor, or assists a contractor in providing general ophthalmic services.

### Commencement Information

**I20** Reg. 20 in operation at 9.11.2007, see [reg. 1](#)

## Publication of particulars

**21.** The Agency shall publish in such manner as appears to it best calculated to inform all persons interested of the arrangements made by [<sup>F27</sup>the Department] for the provision of general ophthalmic services and shall make available for inspection at its office and at such other places as appear to it to be convenient for informing any person interested, copies of these regulations, the ophthalmic list, the terms of service and the Statement, but the Agency need not make available copies of all those documents at every place at which it makes available copies of any of them.

### Textual Amendments

**F27** Words in [reg. 21](#) substituted (1.4.2022) by [The Health and Social Care Act \(Northern Ireland\) 2022 \(General Dental and Ophthalmic Services Consequential and Miscellaneous Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/104\)](#), regs. 1(1), **4(8)**

**Commencement Information**

**I21** Reg. 21 in operation at 9.11.2007, see [reg. 1](#)

**Service of documents**

**22.** Subject to regulations 7(3) and 11(7), 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 [F28the Department] 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 [F28the Department] and the Agency as the address to which correspondence may be sent.

**Textual Amendments**

**F28** Words in [reg. 22](#) substituted (1.4.2022) by [The Health and Social Care Act \(Northern Ireland\) 2022 \(General Dental and Ophthalmic Services Consequential and Miscellaneous Amendment\) Regulations \(Northern Ireland\) 2022 \(S.R. 2022/104\), regs. 1\(1\), 4\(3\)](#)

**Commencement Information**

**I22** Reg. 22 in operation at 9.11.2007, see [reg. 1](#)

**Revocations and transitional provisions**

**23.—(1)** Subject to paragraph (2), the regulations specified in column 1 of Schedule 3 (“the revoked regulations”) are revoked to the extent specified in column 3 of that Schedule.

(2) In respect of any general ophthalmic services provided under the revoked Regulations for which arrangements were made before 9th November 2007, payments shall be made as though the revoked Regulations and determinations made under them and in operation on 8th November 2007 continue to be in operation.

**Commencement Information**

**I23** Reg. 23 in operation at 9.11.2007, see [reg. 1](#)

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 15th October 2007.



*Christine Jendoubi*  
A senior officer of the Department of Health,  
Social Services and Public Safety

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**Changes to legislation:** There are currently no known outstanding effects for the General  
Ophthalmic Services Regulations (Northern Ireland) 2007. (See end of Document for details)

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Sealed with the Official Seal of the Department of Finance and Personnel on 15th October 2007.



*Jack Layberry*  
A senior officer of the Department of Finance  
and Personnel

**Changes to legislation:**

There are currently no known outstanding effects for the General Ophthalmic Services Regulations (Northern Ireland) 2007.