
EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations provide for arrangements for the provision of general ophthalmic services under the National Health Service in Scotland, and for the preparation and maintenance by each Health Board in Scotland of an Ophthalmic List. The regulations define general ophthalmic services under the NHS in Scotland, and provide for a new eye examination. They supersede and revoke the National Health Service (General Ophthalmic Services) (Scotland) Regulations 1986 (“the 1986 Regulations”).

These regulations are consequential on the coming into force of amendments made by the Smoking, Health and Social Care (Scotland) Act 2005 (“the 2005 Act”) to the sections of the National Health Service (Scotland) Act 1978 (“the 1978 Act”) dealing with general ophthalmic services and the disqualification of practitioners.

Those provisions of the 2005 Act were commenced on 1st April 2006 by the Smoking, Health and Social Care (Scotland) Act 2005 (Commencement No. 4) Order 2006 (S.S.I. 2006/).

The changes to the 1978 Act made by the 2005 Act include changes to the structure and content of the Ophthalmic List, the introduction of free eye examinations and sight tests under the National Health Service in Scotland, powers and duties for the NHS Tribunal to enquire into representations that a practitioner meets a third condition for disqualification (which are referred to in Act as “unsuitability cases”) and changes to the way in which effect is to be given in Scotland to disciplinary decisions in England, Wales or Northern Ireland which correspond to decisions which can be made by the NHS Tribunal in Scotland. These regulations make provision consequential upon these changes.

Part I of these regulations makes general provisions for the purpose of these regulations.

Regulation 2 defines the terms used in the regulations.

Part II of the regulations consolidates the provisions of the 1986 regulations relating to qualifications which a doctor must possess for the purposes of general ophthalmic services.

Part III of the regulations makes provisions for the Ophthalmic List which is to be prepared and maintained by each Health Board.

Regulation 6 provides that each Health Board is to prepare and maintain an Ophthalmic List, which will be divided into 2 parts. The first part will contain the names and other details of ophthalmic medical practitioners and opticians who have undertaken to provide general ophthalmic services under arrangements with the Health Board in terms of the regulations.

The second part will contain the names and other details of ophthalmic medical practitioners and opticians who are approved by the Health Board to assist in the provision of such services.

In terms of regulation 2(1) an “ophthalmic medical practitioner” means a registered medical practitioner whose qualifications have been approved in accordance with Part II of the regulations as being prescribed qualifications. An “optician” means an ophthalmic optician, which is defined in section 108(1) of the 1978 Act as a person registered in the Register of Optometrists maintained under section 7 of the Opticians Act 1989, or a body corporate registered in the Register of bodies corporate maintained under section 9 of that Act to carry on business as an optometrist.

Regulation 6(5) provides that (subject to regulation 26(8) (transitional provisions)), an ophthalmic medical practitioner or optician may not provide general ophthalmic services in the area of the Health Board unless that person's name is included in the first part of the Ophthalmic List of that Health Board, and an ophthalmic medical practitioner or optician may not assist in the provision of general ophthalmic services in the area of a Health Board unless that person's name is included in the first or second part of that Health Board's Ophthalmic List.

Regulation 7 sets out the requirements and procedure for making an application for inclusion in an Ophthalmic List, and for the notification of any changes in the information provided. Paragraphs

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(7) to (10) contain provisions for applications by opticians in training. Regulation 7 also sets out the procedure to be followed by a Health Board in considering an application.

Regulation 7(5) provides that where information disclosed by, provided to, or the investigations carried out by the Health Board in terms of regulation 7 lead the Board to consider that there may be grounds for referral to the NHS Tribunal, then the Board may refer the matter to the Tribunal. Regulation 8 sets out mandatory grounds for refusal to include an ophthalmic medical practitioner or optician in an Ophthalmic List.

Regulation 9 set out circumstances in which a Health Board may defer a decision on an application to include an ophthalmic medical practitioner or optician in the Ophthalmic List, and the procedure to be followed.

Regulation 10 sets out the circumstances in which a person whose name appears on a Health Board's Ophthalmic List may withdraw from the Ophthalmic List, and the procedure to be followed.

Regulation 11 sets out the grounds on which a Health Board may suspend an ophthalmic medical practitioner or optician from its Ophthalmic List, and the procedure to be followed.

Regulation 12 sets out the grounds of removal of a person's name from a Health Board's Ophthalmic List. Paragraph (1) sets out mandatory grounds of removal. Paragraph (2) provides that a person who has not provided general ophthalmic services within a Health Board's area for the preceding 6 months shall be removed from the Ophthalmic List. Paragraph (3) provides that a person whose name is included in the second part of the Ophthalmic List has not assisted with the provision of general ophthalmic services in the Health Board's area for a period of 12 months may be removed from the Ophthalmic List. Regulation 12 also provides for the procedure to be followed with regard to the removal of a person's name from a Health Board's Ophthalmic List. Regulation 13 contains provisions regarding the re inclusion of an ophthalmic medical practitioner or optician in a Health Board's Ophthalmic List where the occurrence which led to the removal of that person's name is overturned on appeal or for any other reason.

Regulation 14 provides for certain information regarding the Health Board's decisions in relation to its Ophthalmic List to be disclosed to the parties specified in that regulation.

Regulation 15 sets out the requirements with which an ophthalmic medical practitioner or an optician included in an Ophthalmic List must comply.

Regulation 16 makes provision for effect to be given by a Health Board to a decision made in England, Wales or Northern Ireland which corresponds to a decision which may be made by the NHS Tribunal in Scotland under sections 29 to 32B of the 1978 Act. The definitions of "disqualification" and "suspended" in regulation 2(1) include decisions in England, Wales and Northern Ireland corresponding to disqualification and suspension by the NHS Tribunal in Scotland. Regulation 16 makes provision for decisions in England, Wales and Northern Ireland which correspond to conditional disqualification by the NHS Tribunal in Scotland.

Part IV of the Regulations sets out the general arrangements relating to the provision of general ophthalmic services, including payments to ophthalmic medical practitioners and opticians.

Part V of the Regulations (Regulations 22 and 23) sets out the procedure for applying for an eye examination.

Part VI of the Regulations contains miscellaneous provisions.

Regulation 24 provides for the publication of copies of the Ophthalmic List.

Regulation 25 provides for service of documents.

Regulation 26 and Schedule 6 repeals the 1986 regulations, and the regulations which subsequently amended those regulations, and makes transitional provisions.

Regulation 26 (3) provides that the names of those persons who are on a Board's previous ophthalmic list in terms of the 1986 Regulations on 31 March 2006 will be automatically transferred to the first part of the Board's Ophthalmic List on 1 April 2006. Such persons must provide the information specified in paragraph (6) by 30 June 2006, or such later date as the Board may permit. Paragraph (8) provides that an ophthalmic medical practitioner or optician who wishes to be included in the second part of a Board's Ophthalmic List can assist in the provision of ophthalmic services until 30 June 2006.

Schedule 1 sets out the terms of service for those providing or assisting in the provision of general ophthalmic services.

Paragraph 1 deals with interpretation of terms used in the Schedule.

Paragraph 2 incorporates the provisions of other documents into the terms of service.

Paragraph 3 provides that, except in the case of a body corporate, any ophthalmic medical practitioner or optician providing, or assisting in the provision of, general ophthalmic services, must undergo certain training, and provide a certificate to the Board to that effect.

Paragraphs 4, 5 and 6 contain provisions relating to the premises and locations at which general ophthalmic services are provided, and the equipment used.

Paragraph 7 provides for notices to be displayed at such places.

Paragraph 8 provides for the records to be kept by those providing, or assisting in the provision of, general ophthalmic services. The data to be kept in the records are specified in Schedule 5.

Paragraphs 9 and 10 set out the circumstances in which general ophthalmic services can be carried out by deputies and employees of persons on the Ophthalmic List.

Paragraphs 11 and 12 set out the procedure for dealing with complaints regarding the provision of general ophthalmic services.

Paragraph 13 sets out the procedure for claiming and making payment of charges for the provision of general ophthalmic services.

Paragraph 14 sets out the requirements for carrying out the eye examination.

Paragraph 14 prohibits the use of a name of a person who is disqualified from inclusion in an Ophthalmic List.

Schedule 2 contains the information and undertakings to be included in an application for inclusion in an Ophthalmic List. Regulation 7(1)(d) provides that an application to be included in the first part of the list shall include the information, undertakings, consents and declarations set out in Part A of Schedule 2 Regulation 7(1)(e) provides that an application to be included in the second part of the list shall include the information, undertakings, consents and declarations set out in Part B of Schedule 2.

Part C of Schedule 2 lists the information to be provided in terms of regulation 26(6) by persons who are deemed to be included in a Health Board's Ophthalmic List in terms of regulation 26(3), that is persons who were included in that Health Board's Ophthalmic List maintained under the 1986 Regulations.

Schedule 3 provides the definition of a primary eye examination. It specifies the tests and procedures in a primary eye examination. Table A sets out the mandatory requirements for a primary eye examination, and Table B sets out additional tests and procedures which must be offered to specified categories of patients.

Schedule 4 provides the definition of a supplementary eye examination. It specifies the tests and procedures in a supplementary eye examination.

Schedule 5 provides the definition of records. Table A specifies the data to be included in records.

Schedule 6 specifies the regulations revoked by these regulations.

British Standard 3521:1962, referred to in paragraph 14(6) of Schedule 1 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.

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Changes and effects yet to be applied to :

- Sch. 1 para. 5 omitted by [S.S.I. 2024/38 reg. 12\(a\)](#)
- Sch. 1 para. 13(1) word substituted by [S.S.I. 2024/38 reg. 12\(b\)](#)
- reg. 2(1) words omitted by [S.S.I. 2024/38 reg. 8](#)
- reg. 12(2) word substituted by [S.S.I. 2024/38 reg. 9\(a\)\(ii\)](#)
- reg. 12(2) words omitted by [S.S.I. 2024/38 reg. 9\(a\)\(i\)](#)
- reg. 12(3) words omitted by [S.S.I. 2024/38 reg. 9\(b\)](#)
- reg. 22(2) words omitted by [S.S.I. 2024/38 reg. 10](#)
- reg. 23(1) words omitted by [S.S.I. 2024/38 reg. 11\(a\)\(i\)](#)
- reg. 23(1) words omitted by [S.S.I. 2024/38 reg. 11\(a\)\(ii\)](#)
- reg. 23(1)(b) words omitted by [S.S.I. 2024/38 reg. 11\(a\)\(iii\)](#)
- reg. 23(1)(b)(iii) words omitted by [S.S.I. 2024/38 reg. 11\(a\)\(iv\)](#)
- reg. 23(2) omitted by [S.S.I. 2024/38 reg. 11\(b\)](#)