

EXECUTIVE NOTE

THE NATIONAL HEALTH SERVICE (GENERAL OPHTHALMIC SERVICES) (SCOTLAND) AMENDMENT REGULATIONS 2007 SSI/2007/193

The above instrument is made in exercise of the powers conferred by sections 26, 32A(7), 32D, 105(7), 106(a) and 108(1) of the National Health Service (Scotland) 1978. The Instrument is subject to negative procedures.

Policy Objective

1. This purpose of this Instrument is to amend the National Health Service (General Ophthalmic Services) (Scotland) Regulations 2006 (“the 2006 Regulations”) (SSI 2006/135) to:

- insert definitions of “practice premises” and “record of complaints”;
- streamline procedures for applicants wishing to join the ophthalmic lists held by Health Boards;
- clarify that it is for the Health Board to contact the applicant’s referees rather than for the applicant to provide clinical references;
- increase flexibility in the arrangements for deputising for or being employed by an ophthalmic contractor;
- provide for the Common Services Agency to recover payments from opticians and ophthalmic medical practitioners suspended from either the first or second part of an ophthalmic list and decide on the factors and information to be taken into account in deciding the payment amount;
- clarify that information about an applicant or listed optician or ophthalmic medical practitioner under regulation 14 of the 2006 Regulations may be disclosed to persons or bodies employing or using that applicant’s services for the provision or assistance in provision of general ophthalmic services;
- provide that a supplementary eye examination can only be undertaken following a primary eye examination, except in specific circumstances;
- correct minor drafting errors in the 2006 Regulations and make a number of other minor amendments.

2. An optician wishing to join the ophthalmic list of a Health Board must forward to that Board a completed application along with a range of supporting information and other papers. The Board then checks all of the information provided and either admits the applicant onto its ophthalmic list, seeks further information to help it decide on the fitness of the applicant to be listed or takes one of the following actions - refuses the applicant entry where under a duty to do so or refers the applicant to the NHS Tribunal for disqualification.

3. The Instrument streamlines entry procedures. It provides that an applicant can forward a single application to a Health Board listing all of the areas in which he or she wishes to work. That Board will then check all of the information accompanying the application and inform the other Health Board(s) named on the application of its decision, enabling this Board or Boards to accept the optician or ophthalmic medical practitioner onto its/their ophthalmic list without further enquiry if it/they so choose;

If the applicant is already on one or more ophthalmic lists, and specifies in the application form that he/she is so included a Health Board can include an applicant in its ophthalmic list without making any further enquiry

4. Regulation (2)(4)(b) of the Instrument substitutes wording in paragraph 3(b) of regulation 7 of the 2006 Regulations to clarify that, as part of the information checking procedure, a Health Board must approach for clinical references the referees put forward by an applicant to its ophthalmic list rather than rely on the applicant providing references.

5. Currently, an optician may only deputise for another optician and an ophthalmic medical practitioner (OMP) for another OMP for the provision of general ophthalmic services. Likewise an optician can only employ another optician and an OMP can only employ another OMP for the provision of general ophthalmic services. Regulations 2(15)(c) and (d) of the Instrument introduce flexibility and increase choice by providing additionally for an OMP to deputise for or be employed by an optician and vice versa.

6. Where the Common Services Agency makes a suspension payment to an ophthalmic contractor who is either an optician or an ophthalmic medical practitioner in error or in circumstances where it is not due, the Agency may recover the monies from that contractor. Regulation 2(12) of the Instrument provides for the Agency to decide on the payment amount by taking into account such factors and evidence as it considers necessary and substitutes regulation 21(6) of the 2006 Regulations to extend the categories of persons from whom the Agency may recover a suspension payment i.e. from opticians and ophthalmic medical practitioners on the second part of an ophthalmic list.

7. Regulation 2(2) of the Instrument amends the definition of “enhanced criminal record certificate” in regulation 2(1) of the 2006 Regulations to refer to the new section 113B of the Police Act 1997 inserted by the Serious Organised Crime and Police Act 2005. It also amends the definition of “records” and inserts a definition of “record of complaints” to clarify that contractors must keep 2 separate types of record – clinical patient records and records of complaints made. Finally, it inserts a definition of “practice premises” to clarify where general ophthalmic services may be provided.

8. Under regulation 14(3)(a) of the 2006 Regulations, a Health Board may disclose information about a list applicant or listed optician or ophthalmic medical practitioner to persons or bodies employing or using the services of the applicant or listed optician or ophthalmic medical practitioner for the provision or assistance in provision of general ophthalmic services. Regulation 2(8) of the Instrument amends the wording in regulation 14(3)(a) to clarify that the relevant persons or bodies to whom information may be disclosed are restricted to persons or bodies employing or using the services of the optician or ophthalmic medical practitioner for the provision or assistance with the provision of general ophthalmic services which was the policy intention.

9. Regulation 2(15)(g) of the Instrument amends paragraph 14 of the 2006 Regulations to provide that a supplementary eye examination can only be undertaken following a primary eye examination. The only exception to this being where a child is referred by an ophthalmic hospital for a cycloplegic refraction.

10. The Instrument also corrects a number of minor drafting errors in the 2006 Regulations.

Consultation

11. A copy of the draft Regulations was sent to Optometry Scotland.

Financial Effects

12. There should be no additional costs to NHS Boards.

SCOTTISH EXECUTIVE HEALTH DEPARTMENT
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