
SCOTTISH STATUTORY INSTRUMENTS

2010 No. 378

The National Health Service (General Ophthalmic Services and General Dental Services) (Scotland) Amendment Regulations 2010

Amendments to the National Health Service (General Ophthalmic Services) (Scotland) Regulations 2006

- 2.—(1) The 2006 Regulations are amended as follows.
- (2) In regulation 2(1) (interpretation) insert the following definitions in the appropriate place:—
- “the 2007 Act” means the Protection of Vulnerable Groups (Scotland) Act 2007;
 - “barred from regulated work” means barred from regulated work with children or adults within the meaning of section 92(1) or (2) (individuals barred from regulated work) of the 2007 Act;
 - “considered for listing” means considered for listing by the Scottish Ministers in the children’s list or adult’s list or in both lists in pursuance of section 10, 11, 12 or 13 (consideration whether to list) of the 2007 Act;
 - “disclosure record” has the meaning given in section 97(1) of the 2007 Act;
 - “disclosure request” has the meaning given in section 97(1) of the 2007 Act;
 - “scheme member” means a member of the Scheme, established by section 44 of the 2007 Act, in relation to both—
 - (a) regulated work with children, as defined in section 91(2) (regulated work) of the 2007 Act; and
 - (b) regulated work with adults, as defined in section 91(3) of the 2007 Act.
- (3) In regulation 7 (application for inclusion in Ophthalmic List and notification of changes)(1)—
- (a) in paragraphs (1)(d) and (e) and (8)(a) after “as the case may be” insert “, disclosure requests, disclosure records,”;
 - (b) in paragraph (2)(b) after “certificates, applications,” in both places it occurs insert “disclosure requests, disclosure records,”;
 - (c) for paragraph (2)(c) substitute—
 - “(c) if the optician or ophthalmic medical practitioner is included in the Ophthalmic List of more than one Board, send the notification and information referred to in sub-paragraph (a) to each Board on whose Ophthalmic List that optician or ophthalmic medical practitioner is included, and—
 - (i) to the Board in whose area the optician or ophthalmic medical practitioner derives most income from general ophthalmic services: the original declarations, certificate or application, disclosure record and disclosure request, undertakings and consents required in terms of sub-paragraph (b); and

- (ii) a copy of such originals to each other Board on whose Ophthalmic List that optician or ophthalmic medical practitioner is included.”;
- (d) at the end of paragraph (3)(d) omit “and”;
- (e) at the end of paragraph (3)(e), insert—
 - “; and
 - (f) obtain any disclosure record it requires in respect of the application.”;
- (f) in paragraph (5) after “certificate” insert “or disclosure record”.
- (4) At the end of regulation 8(1)(i) (grounds for refusal of application)(2), insert—
 - “;
 - (j) the applicant (except where the applicant is a body corporate) is not a scheme member;
 - (k) the applicant (except where the applicant is a body corporate) is barred from regulated work.”.
- (5) In regulation 9 (deferment of decision on application)(3)—
 - (a) at the end of paragraph (1)(i) omit “or”;
 - (b) at the end of paragraph (1)(j), insert—
 - “; or
 - (k) the applicant is being considered for listing and the Board is satisfied that it is necessary for the protection of members of the public for the application to be deferred.”;
 - (c) in paragraph (2) for “(i)” substitute “(k)”.
- (6) In regulation 11 (suspension)—
 - (a) at the end of paragraph (1)(e), insert—
 - “;
 - (f) while that person is being considered for listing.”;
 - (b) in paragraph (4), for “(1)(d)” substitute “(1)(b), (d) or (f)”.
- (7) In regulation 12 (removal from Ophthalmic List)(4)—
 - (a) omit “or” at the end of paragraph (1)(e); and
 - (b) at the end of paragraph (1)(f), insert—
 - “;
 - (g) is barred from regulated work; or
 - (h) is no longer a scheme member.”.
- (8) In Part A of Schedule 2 (information, certificates, consents, declarations and undertakings to be included in an application for inclusion in the first part of the Ophthalmic List)—
 - (a) in the title, after “CERTIFICATES,” insert “DISCLOSURE REQUESTS, DISCLOSURE RECORDS,”;
 - (b) for paragraph 3(a) and (aa)(5) substitute—
 - “(a) where the applicant is an ophthalmic medical practitioner or an optician (except where the optician is a body corporate)—

(2) Regulation 8 was relevantly amended by regulation 3(4) of [S.S.I. 2010/86](#).

(3) Regulation 9 was relevantly amended by regulation 3(5) of [S.S.I. 2010/86](#).

(4) Regulation 12 was relevantly amended by regulation 3(7) of [S.S.I. 2010/86](#).

(5) Paragraph 3 was amended by regulation 3(10)(b) of [S.S.I. 2010/86](#).

- (i) a disclosure request for any disclosure record required under regulation 7(3)(f); and
 - (ii) where required by the Board under that regulation, any existing disclosure record the applicant holds;
 - (aa) where the applicant is a body corporate, an enhanced criminal record certificate in relation to each director, dated not earlier than 28 days before the date of the application, or an application for such a certificate completed and signed by each director who is not already on the Board's Ophthalmic List; and";
 - (c) in paragraph 4—
 - (i) omit "and" at the end of sub-paragraph (e); and
 - (ii) at the end of sub-paragraph (f), insert—
 - “; and
 - (g) that the applicant (except where the applicant is a body corporate) will remain a scheme member.”.
- (9) In Part B of Schedule 2 (information, consents, declarations, certificates and undertakings to be included in an application for inclusion in the second part of the ophthalmic list)—
- (a) in the title, after “CERTIFICATES” insert “, DISCLOSURE REQUESTS, DISCLOSURE RECORDS”;
 - (b) in paragraph 1—
 - (i) in sub-paragraph (i) omit from “(and” to “corporate”); and
 - (ii) in sub-paragraph (j), after “applicant”, insert “(and, where the applicant is an optician that is a body corporate, all directors of the body corporate)”;
 - (c) for paragraph 3(a) and (aa)(6) substitute—
 - “(a) where the applicant is an ophthalmic medical practitioner or an optician (except where the optician is a body corporate)—
 - (i) a disclosure request for any disclosure record required under regulation 7(3)(f); and
 - (ii) where required by the Board under that regulation, any existing disclosure record the applicant holds;
 - (aa) where the applicant is a body corporate, an enhanced criminal record certificate in relation to each director, dated not earlier than 28 days before the date of the application, or an application for such a certificate completed and signed by each director who is not already on the Board's Ophthalmic List; and”.
 - (d) in paragraph 4—
 - (i) omit “and” at the end of sub-paragraph (e); and
 - (ii) at the end of sub-paragraph (f), insert—
 - “; and
 - (g) that the applicant (except where the applicant is a body corporate) will remain a scheme member.”.