
SCOTTISH STATUTORY INSTRUMENTS

2010 No. 86

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

Amendment of the 2006 Regulations

- 3.—(1) The 2006 Regulations are amended as follows.
- (2) In regulation 2(1) (interpretation)—
- (a) in the definition of “primary eye examination”, omit “including where clinically necessary a sight test”;
 - (b) for the definition of “records” substitute—
““records” means records kept in accordance with paragraph 8 of Schedule 1 and as specified in Schedule 5;”;
 - (c) for the definition of “supplementary eye examination” substitute—
““supplementary eye examination” means the tests and procedures specified in paragraphs 1 and 2 of Schedule 4 and in column 2 of the Table in Schedule 4 in the circumstances specified in column 1 of that Schedule;”.
- (3) In regulation 7 (application for inclusion in Ophthalmic List and notification of changes)-
- (a) in paragraphs (1)(d) and (e) and in paragraph (8)(a), after “certificates,”, insert “applications for such certificates as the case may be”;
 - (b) after paragraph (1A), insert—
“(1B) An application shall, in the case of an application by an optician that is a body corporate, be signed by all the directors of that body corporate.”;
 - (c) For paragraph (2), substitute—
“(2) An optician or ophthalmic medical practitioner who is included in a Board’s Ophthalmic List shall—
 - (a) notify the Board in writing if there is a change to any of the information which that optician or ophthalmic medical practitioner has provided in terms of regulation 7(1) together with that changed information within 7 days of the occurrence of the relevant change;
 - (b) supply any declarations, certificates, applications, undertakings and consents either at the same time as it supplies the information in terms of sub-paragraph (a) or by such date as the Board may determine, if the change to the information is such that, had the information been part of an application it would have required any of the declarations, certificates, applications, undertakings and consents required by regulation 7(1) to be supplied;
 - (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) and the declarations, certificates, applications, undertakings and consents required in terms of sub-paragraph (b) to each Board on whose Ophthalmic List that optician or ophthalmic medical practitioner is included.”;

- (d) in paragraph (3)(c) omit “and”;
- (e) after paragraph (3)(d), insert—
 - “; and
 - (e) obtain any enhanced criminal record certificate required in respect of the application if such certificate was not included with the application.”;
- (f) After paragraph (4), insert—
 - “(4A) If a Board considers that it requires to meet with—
 - (a) the applicant; or
 - (b) where the applicant is an optician that is a body corporate, any of its directors,in order to properly determine the application, it shall require the applicant or director as the case may be, to attend a meeting at a reasonable time and place to discuss the application, and the applicant or director as the case may be shall comply with such a request.
 - (4B) A Board may, if it considers that the proposed practice premises of an applicant should be inspected, inspect such premises.
 - (4C) Where the proposed practice premises of an applicant have never been inspected by a Board, it shall inspect the proposed practice premises before determining the application.
 - (4D) Any inspection made pursuant to paragraphs (4B) or (4C) shall be made no later than 14 days after the date of receipt of the application.
 - (4E) Following any inspection made pursuant to paragraphs (4B) or (4C), a Board may specify that the applicant shall carry out such work within a reasonable period of time in order to comply with the provisions of paragraph 6 of Schedule 1.”;
- (g) after paragraph (11), insert—
 - “(12) An optician or ophthalmic medical practitioner who has made an application for inclusion in a Board’s Ophthalmic List shall notify the Board that is considering the application in writing if there is a change to any of the information which that optician or ophthalmic medical practitioner has provided in terms of this regulation as soon as such change occurs.”.
- (4) In regulation 8 (grounds for refusal of application)—
 - (a) in sub-paragraph (1)(c), for “has been”, substitute “is”;
 - (b) for sub-paragraph (1)(d), substitute—
 - ““the applicant is suspended from the Ophthalmic List or equivalent list”;
 - (c) in sub-paragraph (1)(f), after “disqualification”, insert “and, at the time of the application, the decision of that equivalent body remains in force”;
 - (d) in sub-paragraph (1)(g), after “suspended”, insert “and, at the time of the application, such order or direction remains in force”;
 - (e) after sub-paragraph (1)(g), insert—
 - “.
 - (h) the Board is not satisfied, after an inspection of the premises where the applicant intends to provide general ophthalmic services, that the premises comply with the provisions of paragraph 6 of Schedule 1;
 - (i) the Board is not satisfied that the applicant (except where the applicant is a body corporate) has the knowledge of English which, in the interests of the applicant and of patients who may receive general ophthalmic services from the applicant,

is necessary for providing, or assisting with the provision of general ophthalmic services.”.

- (5) In regulation 9 (deferral of decision on application), in paragraph (1)—
- (a) in sub-paragraph (h), after “of that body corporate;”, omit “or”;
 - (b) after sub-paragraph (i), insert—
 - “; or
 - (j) after an inspection of the premises for the purposes of regulation 7(4B)-(4E), the Board provided the applicant with a reasonable period of time to carry out such work as the Board has specified in order to ensure that the premises meet the required standard to comply with the provisions of paragraph 6 of Schedule 1.”.
- (6) In regulation 11 (suspension), in sub-paragraph (1)(d), after “Tribunal”, insert “or equivalent body”.
- (7) In regulation 12 (removal from Ophthalmic List)—
- (a) in sub-paragraph (1)(d), for “has been”, substitute “is”;
 - (b) in sub-paragraph (1)(e), after “disqualification”, insert “(and that refusal or removal is still in force)”;
 - (c) in sub-paragraph (1)(f), after “suspended”, insert “(and that erasure, removal or suspension is still in force)”.
- (8) In regulation 22 (application for an eye examination), after paragraph (3), insert—
- “(3A) Where an eye examination is a primary eye examination, that examination shall not be carried out more frequently than the frequency set down in Table C of Schedule 3, except in the circumstances as provided for in paragraph (3B).
 - (3B) The maximum frequency set down in Table C of Schedule 3 does not apply where—
 - (a) the optician or ophthalmic medical practitioner who is carrying out the eye examination does not have access to or means to access the patient’s records;
 - (b) the eye examination is carried out no more than four weeks before the patient’s next primary eye examination would be due in accordance with Table C of that Schedule.
 - (3C) Where an eye examination is carried out more frequently than the frequency set down in Table C of Schedule 3, and paragraph (3B) does not apply, it shall be undertaken as a supplementary eye examination.”.
- (9) In Schedule 1 (terms of service)—
- (a) in paragraph 6 (premises and equipment), for sub-paragraphs (1) and (2), substitute—
 - “(1) Subject to sub-paragraph (2), a contractor shall provide proper, sufficient and appropriate premises, equipment and procedures for the provision of general ophthalmic services at the practice premises.
 - (2) A contractor who provides general ophthalmic services at a mobile surgery shall provide proper, sufficient and appropriate mobile surgery equipment and procedures for the provision of general ophthalmic services.”;
 - (b) in paragraph 7 (notices)—
 - (i) for “a notice and leaflet”, insert “notices and leaflets”;
 - (ii) after “the Board”, insert “or the Agency”;
 - (c) in paragraph 14 (eye examinations)—

- (i) in sub-paragraph (1)(b), omit the words from “following” to “cycloplegic refraction”;
 - (ii) after sub-paragraph (1), insert—
 - “(1A) An ophthalmic medical practitioner or optician who accepts in accordance with these regulations an application under sub-paragraph (1) shall carry out each specific mandatory test and procedure specified in Schedule 3 or Schedule 4 as appropriate unless—
 - (a) the ophthalmic medical practitioner or optician considers that the patient has a physical or mental condition which would make the carrying out of one or more specified test(s) or procedure(s) clinically inappropriate, or
 - (b) the patient has refused to undertake one or more specified test(s) or procedure(s).”;
 - (iii) omit sub-paragraph (2);
 - (iv) in sub-paragraph (4)—
 - (aa) for paragraph (i) substitute—
 - “(i) refer the patient either to his or her doctor or to an ophthalmic hospital.”;
 - (bb) in paragraph (ii), before “inform” insert—
 - “in the case of a referral to an ophthalmic hospital.”;
 - (v) omit sub-paragraph (5).
- (10) 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 paragraph 1—
 - (i) in sub-paragraph (a), before “the applicant’s”, insert “except where the applicant is an optician that is a body corporate.”;
 - (ii) in sub-paragraph (b), before “a full description”, insert “except where the applicant is an optician that is a body corporate.”;
 - (iii) in sub-paragraph (j), before “chronological details”, insert “except where the applicant is an optician that is a body corporate.”;
 - (iv) in sub-paragraph (k), after “applicant”, insert “(and, where the applicant is an optician that is a body corporate, all directors of the body corporate)”;
 - (v) in sub-paragraph (l), before “name and addresses”, insert “except where the applicant is an optician that is a body corporate.”;
 - (vi) in sub-paragraph (m), before “if the applicant”, insert “except where the applicant is an optician that is a body corporate.”;
 - (vii) in sub-paragraph (n) for “the name and registered office of that body”, substitute “or, if the applicant is an optician that is a body corporate, the body corporate’s name, registered office and registered number, telephone number, e-mail address and a list of the full names, dates of birth, private addresses and (if they have one) the national insurance numbers, of all the directors and the secretary”;
 - (viii) in sub-paragraph (o), after “applicant”, insert “(and, where the applicant is an optician that is a body corporate, all directors of the body corporate)”;
 - (b) in paragraph 3, for sub-paragraph (a), substitute—

- “(a) an enhanced criminal record certificate in relation to the applicant or, where the applicant is an optician that is a body corporate, in relation to each director, dated not earlier than 28 days before the date of the application; or
 - (aa) an application for such certificate required in terms of sub-paragraph (a) duly completed and signed by the applicant or, where the applicant is an optician that is a body corporate, completed and signed by each director of that body corporate; and”;
 - (c) in paragraph 4(d)—
 - (i) after “the applicant”, where it appears for the first time, insert—
 - “and, where the applicant is an optician that is a body corporate, all directors of the body corporate,”; and
 - (ii) after “or former employer of the applicant”, insert “or of any director as the case may be”.
- (11) 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 paragraph 1—
 - (i) in sub-paragraph (a), before “the applicant’s”, insert “except where the applicant is an optician that is a body corporate,”;
 - (ii) in sub-paragraph (b), before “a full description”, insert “except where the applicant is an optician that is a body corporate,”;
 - (iii) in sub-paragraph (e), before “chronological details”, insert “except where the applicant is an optician that is a body corporate,”;
 - (iv) in sub-paragraph (f), after “applicant”, insert “(and, where the applicant is an optician that is a body corporate, all directors of the body corporate)”;
 - (v) in sub-paragraph (g), before “name and addresses”, insert “except where the applicant is an optician that is a body corporate,”;
 - (vi) in sub-paragraph (h), before “if the applicant”, insert “except where the applicant is an optician that is a body corporate,”;
 - (vii) in sub-paragraph (i), for “the name and registered office of that body”, substitute “or, if the applicant is an optician that is a body corporate, the body corporate’s name, registered office and registered number, telephone number, e-mail address and a list of the full names, dates of birth, private addresses and (if they have one) the national insurance numbers, of all the directors and the secretary”;
 - (viii) in sub-paragraph (i), after “applicant”, insert “(and, where the applicant is an optician that is a body corporate, all directors of the body corporate)”;
 - (ix) in paragraph 3, for sub-paragraph (a), substitute—
 - “(a) an enhanced criminal record certificate in relation to the applicant or, where the applicant is an optician that is a body corporate, in relation to each director, dated not earlier than 28 days before the date of the application; or
 - (aa) an application for such certificate required in terms of sub-paragraph (a) duly completed and signed by the applicant or, where the applicant is an optician that is a body corporate, completed and signed by each director of that body corporate; and”;
 - (b) in paragraph 4(d)—

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- (i) after “the applicant”, where it appears for the first time, insert—
 - “and, where the applicant is an optician that is a body corporate, all directors of the body corporate,”; and
- (ii) after “or former employer”, insert “of the applicant or of any director as the case may be”.

(12) For Schedule 3 of the 2006 Regulations (Primary Eye Examination) substitute Schedule 1 of these Regulations.

(13) For Schedule 4 of the 2006 Regulations (Supplementary Eye Examination) substitute Schedule 2 of these Regulations.

(14) For Schedule 5 of the 2006 Regulations (Records) substitute Schedule 3 of these Regulations.