



# National Health Service Act 1977

## 1977 CHAPTER 49

### PART II

#### GENERAL MEDICAL, GENERAL DENTAL, GENERAL OPHTHALMIC, AND PHARMACEUTICAL SERVICES

##### *General ophthalmic services*

### 38 Arrangements for general ophthalmic services.

[<sup>F1</sup>(1)] [<sup>F2</sup>It is the duty of every [<sup>F3</sup>Health Authority], in accordance with regulations, to arrange as respects their [<sup>F4</sup>area] with medical practitioners having the prescribed qualifications, [<sup>F5</sup>and ophthalmic opticians for securing the testing][<sup>F6</sup>by them of the sight—

- (a) of a child;
- (b) of a person whose resources fall to be treated under the regulations as being less than his requirements or as being equal to his requirements; or
- (c) of a person of such other description as may be prescribed.

(2) In this section—

“child” means—

- (a) a person who is under the age of 16 years; or
- (b) a person who is under the age of 19 years and receiving qualifying full-time education; and

“qualifying full-time education” means full-time instruction at a recognised educational establishment or by other means accepted as comparable by the Secretary of State, and for the purpose of this definition—

- (a) “recognised educational establishment” means an establishment recognised by the Secretary of State as being, or as comparable to, a school, college or university; and
- (b) regulations may prescribe the circumstances in which a person is or is not to be treated as receiving full-time instruction.

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*Status: Point in time view as at 22/11/2001. This version of this provision has been superseded.*

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- (3) Regulations under this section may direct how a person's resources and requirements are to be calculated and, without prejudice to the generality of this subsection, may direct that they shall be calculated—
- (a) by a method set out in the regulations;
  - (b) by a method described by reference to a method of calculating or estimating income or capital specified in an enactment other than this section or in an instrument made under an Act of Parliament or by reference to such a method but subject to prescribed modifications;
  - (c) by reference to an amount applicable for the purposes of a payment under an Act of Parliament or an instrument made under an Act of Parliament; or
  - (d) by reference to the person's being or having been entitled to payment under an Act of Parliament or an instrument made under an Act of Parliament.
- (4) Descriptions of persons may be prescribed for the purposes of subsection (1) above by reference to any criterion and, without prejudice to the generality of this subsection, by reference to any of the following criteria—
- (a) their age;
  - (b) the fact that a prescribed person or a prescribed body accepts them as suffering from a prescribed medical condition;
  - (c) the fact that a prescribed person or a prescribed body accepts that a prescribed medical condition from which they suffer arose in prescribed circumstances;
  - (d) their receipt of benefit in money or in kind under any enactment or their entitlement to receive any such benefit; and
  - (e) the receipt of any such benefit by other persons satisfying prescribed conditions or the entitlement of other persons satisfying prescribed conditions to receive such benefits.
- (5) Regulations which refer to an Act of Parliament or an instrument made under an Act of Parliament may direct that the reference is to be construed as a reference to that Act or instrument—
- (a) as it has effect at the time when the regulations are made; or
  - (b) both as it has effect at that time and as amended subsequently.
- (6) Regulations may provide that a person—
- (a) whose sight is tested by a person who provides general ophthalmic services; and
  - (b) who is shown during the testing or within a prescribed time after it to fall within subsection (1) above,
- shall be taken for the purposes of the testing to have so fallen immediately before his sight was tested; and the testing shall be treated—
- (i) for the purposes of any arrangements under this section;
  - (ii) for the purposes of remuneration in respect of the testing; and
  - (iii) for any such other purpose as may be prescribed,
- as a testing of sight under this Act.
- (7) Regulations shall define the services for the provision of which arrangements under this section are to be made and the services so defined are in this Act referred to as “general ophthalmic services”.]

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#### Textual Amendments

- F1** The first paragraph of s. 38 renumbered as s. 38(1) by [Health and Medicines Act 1988 \(c. 49, SIF 113:2\)](#), **s. 13(1)**
- F2** Words substituted by [S.I. 1985/39, art. 7\(11\)](#)
- F3** Words in s. 38(1) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by [1995 c. 17, ss. 2\(1\)\(3\), 8\(1\)](#), **Sch. 1 Pt. I para. 27(a)** (with [Sch. 2 paras. 6, 16](#))
- F4** Words in s. 38(1) substituted (28.6.1995 for specified purposes and otherwise 1.4.1996) by [1995 c. 17, ss. 2\(1\)\(3\), 8\(1\)](#), **Sch. 1 Pt. I para. 27(b)** (with [Sch. 2 paras. 6, 16](#))
- F5** Words substituted by [Health and Social Security Act 1984 \(c. 48, SIF 113:1\)](#), **s. 1(3)**
- F6** [S. 38\(1\)\(a\)–\(7\)](#) and the words “by them of the sight—” substituted by [Health and Medicines Act 1988 \(c. 49, SIF 113:2\)](#), **s. 13(1)**

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