



# Opticians Act 1989

## 1989 CHAPTER 44

### PART IV

#### RESTRICTIONS ON TESTING OF SIGHT, FITTING OF CONTACT LENSES, SALE AND SUPPLY OF OPTICAL APPLIANCES AND USE OF TITLES AND DESCRIPTIONS

#### [<sup>F1</sup>27] **Sale and supply of optical appliances.**

- (1) A person shall not sell—
  - (a) any contact lens for use by any person who does not have a valid specification provided pursuant to section 25(5) above; or
  - (b) subject to the following provisions of this section, any optical appliance or zero powered contact lens unless the sale is effected by or under the supervision of a registered medical practitioner, a registered optometrist or a registered dispensing optician.
- (2) Subsection (1) above shall not apply to any of the following sales—
  - (a) a sale for a person who has attained the age of sixteen of spectacles which have two single vision lenses of the same positive spherical power not exceeding 4 dioptries where the sale is wholly for the purpose of correcting, remedying or relieving presbyopia;
  - (b) a sale of an optical appliance intended for use as protection or cover for the eyes in sports if—
    - (i) neither lens fitted to the appliance has a positive or negative spherical power exceeding 8 dioptries;
    - (ii) the appliance is an appliance with a single vision lens or single vision lenses; and
    - (iii) the appliance falls within any category of appliance specified in an order made by the Privy Council for the purposes of this section; or
  - (c) a sale of a contact lens for a person who has attained the age of sixteen where the sale satisfies the requirements of subsection (3) below.
- (3) Those requirements are that—

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- (a) the seller has—
    - (i) the original specification;
    - (ii) a copy of the original specification which he verifies with the person who provided it; or
    - (iii) an order from the purchaser, submitted either in writing or electronically, which contains the particulars of the specification of the person who intends to wear the contact lens (“the wearer”), and the seller verifies those particulars with the person who provided the specification;
  - (b) the seller is reasonably satisfied that the goods ordered are for use by the person named in the specification;
  - (c) the sale is made before the expiry date mentioned in the specification;
  - (d) the seller is, or is under the general direction of, a registered medical practitioner, a registered optometrist or a registered dispensing optician; and
  - (e) the wearer—
    - (i) is not, so far as the seller knows, [<sup>F2</sup>registered as sight-impaired or severely sight-impaired in a register kept by a local authority under section 77(1) of the Care Act 2014 or][<sup>F3</sup>registered as blind or registered as partially sighted in a register compiled by a local authority under section 29(4)(g) of the National Assistance Act 1948 (welfare services);][<sup>F3</sup>section 18(1) of the Social Services and Well-being (Wales) Act 2014.]
    - (ii) has not been certified as blind or as partially sighted and in consequence registered as blind or partially sighted in a register maintained by or on behalf of a council constituted under the Local Government (Scotland) Act 1994; or
    - [<sup>F4</sup>(iii) has not been certified as sight-impaired or severely sight-impaired and in consequence registered as sight-impaired or severely sight-impaired in a register maintained by or on behalf of the Department of Health in Northern Ireland.]
- (3A) In this section—
- (a) “seller”—
    - (i) includes any person who supplies the optical appliance or, as the case may be, the zero powered contact lens whether or not payment is made to him for the supply; and
    - (ii) does not include a person who supplies the contact lens as part of the assessment process in the course of fitting the lenses to the individual; and
  - (b) lenses are to be taken to have the same positive spherical power if the difference between them is within the tolerances relating to the power of such lenses specified from time to time by the British Standard Specification.
- (3B) The seller must make arrangements, except in such cases or classes of cases as may be prescribed in rules made by the Council, for the individual for whom the optical appliance or, as the case may be, the zero powered contact lens is supplied to receive aftercare in so far as, and for so long as, may be reasonable in his particular case.
- (3C) The Council may by rules specify the arrangements which are to be made or may be made under subsection (3B) above.]

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- (4) Subsection (1) above shall apply to the supply of an optical appliance [<sup>F5</sup>or zero powered contact lens] in the course of the practice or business of an [<sup>F6</sup>optometrist] or dispensing optician, whether by the person carrying on the practice or business or by a person employed by him, if the supply was effected in pursuance of arrangements made—
- (a) with a Minister of the Crown or Government department (including a Northern Ireland department); or
  - (b) with any body on whom functions are conferred by or by virtue of—
    - [<sup>F7</sup>(i) the National Health Service Act 2006 or the National Health Service (Wales) Act 2006;]
    - (ii) the <sup>M1</sup>National Health Service (Scotland) Act 1978 ; or
    - (iii) the <sup>M2</sup>Health and Personal Social Services (Northern Ireland) Order 1972 [<sup>F8</sup>or the Health and Personal Social Services (Northern Ireland) Order 1991],
 as it applies to the sale of an optical appliance [<sup>F5</sup>or zero powered contact lens] .
- (5) Subsection (1) above shall not apply to the sale of an optical appliance [<sup>F9</sup>or zero powered contact lens] —
- (a) to a registered medical practitioner, [<sup>F10</sup>registered optometrist, registered dispensing optician or business registrant] for the purposes of his practice or of his or its business;
  - (b) to a manufacturer of or dealer in optical appliances [<sup>F11</sup>or zero powered contact lenses] for the purposes of his business;
  - (c) to any authority or person carrying on a hospital, clinic, nursing home or other institution providing medical or surgical treatment;
  - [<sup>F12</sup>(cc) to any authority or person providing a care home service (as defined by section 2(3) of the Regulation of Care (Scotland) Act 2001 (asp 8)), which includes the provision of medical or surgical treatment;]
  - (d) to a Minister of the Crown or Government department (including a Northern Ireland department);
  - (e) for the purpose of its export; or
  - (f) in accordance with an order under subsection (6) below.
- (6) An order under this subsection is an order made by the Privy Council and specifying—
- (a) optical appliances to which it applies; and
  - (b) conditions subject to which their sale is exempted from the requirements of subsection (1) above.
- (7) Any such order relating to optical appliances consisting of or including one or more lenses shall specify, as a condition subject to which the sale of any such appliance is so exempted, the condition that the appliance must be in accordance with a written prescription which—
- (a) has been given by a registered medical practitioner or registered [<sup>F13</sup>optometrist] following a testing of sight by him; and
  - (b) bears a date not more than such time as is specified in the order before the prescription is presented to the proposed seller of the appliance.
- (8) An order under subsection (6) above may not specify as appliances to which it applies—
- (a) contact lenses; or

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- (b) any optical appliance for a person under 16 years of age.
- (9) On any prosecution for selling an optical appliance [<sup>F14</sup>or zero powered contact lens] in contravention of subsection (1) above it shall be a defence for the defendant to prove—
- (a) that he sold the appliance [<sup>F15</sup>or lens] as an antique or secondhand article; and
- (b) that he did not know, and had no reason to believe, that the appliance [<sup>F15</sup>or lens] was bought for the purpose of being used for correcting, remedying or relieving a defect of sight.
- (10) A person who contravenes subsection (1) above shall be liable on summary conviction to a fine of an amount not exceeding [<sup>F16</sup>level 5] on the standard scale.

### Textual Amendments

- F1** S. 27(1)-(3C) substituted for s. 27(1)-(3) (coming into force in accordance with art. 1(3)-(6) of the amending S.I.) by [The Opticians Act 1989 \(Amendment\) Order 2005 \(S.I. 2005/848\)](#), [art. 20\(2\)](#) (with [art. 20\(7\)](#), [Sch. 2](#))
- F2** Words in s. 27(3)(e)(i) inserted (1.4.2015) by [The Care Act 2014 and Children and Families Act 2014 \(Consequential Amendments\) Order 2015 \(S.I. 2015/914\)](#), [art. 1\(2\)](#), [Sch. para. 48](#) (with [arts. 1\(3\)](#), [3](#)) (see [S.I. 2015/993](#), [art. 2\(a\)](#))
- F3** Words in s. 27(3)(e)(i) substituted (E.W.) (6.4.2016) by [The Social Services and Well-being \(Wales\) Act 2014 \(Consequential Amendments\) Regulations 2016 \(S.I. 2016/413\)](#), [regs. 2\(1\)](#), [123](#)
- F4** S. 27(3)(e)(iii) substituted: (N.I.) (1.4.2022) by [Health and Social Care Act \(Northern Ireland\) 2022 \(c. 3\)](#), [s. 8\(1\)\(b\)](#), [Sch. 1 para. 134](#); [S.R. 2022/102](#), [art. 2\(b\)](#); and (E.W.S.) (30.11.2022) by [The Health and Social Care Act \(Northern Ireland\) 2022 \(Consequential Amendments\) Order 2022 \(S.I. 2022/1174\)](#), [arts. 1\(2\)](#), [15](#)
- F5** Words in s. 27(4) inserted (coming into force in accordance with art. 1(3)-(6) of the amending S.I.) by [The Opticians Act 1989 \(Amendment\) Order 2005 \(S.I. 2005/848\)](#), [art. 20\(3\)\(b\)](#) (with [art. 20\(7\)](#), [Sch. 2](#))
- F6** Word in s. 27(4) substituted (coming into force in accordance with art. 1(3)-(6) of the amending S.I.) by [The Opticians Act 1989 \(Amendment\) Order 2005 \(S.I. 2005/848\)](#), [art. 20\(3\)\(a\)](#) (with [art. 20\(7\)](#), [Sch. 2](#))
- F7** S. 27(4)(b)(i) substituted (1.3.2007) by [National Health Service \(Consequential Provisions\) Act 2006 \(c. 43\)](#), [s. 8\(2\)](#), [Sch. 1 para. 127](#) (with [Sch. 3 Pt. 1](#))
- F8** Words in section 27(4)(b)(iii) inserted (N.I.) (15. 4. 1991) by [S.I. 1991/194](#), [art. 34](#), [Sch. 5 Pt. II](#); [S.R. 1991/131](#), [para. 2\(b\)](#), [Sch. Pt. I](#)
- F9** Words in s. 27(5) inserted (coming into force in accordance with art. 1(3)-(6) of the amending S.I.) by [The Opticians Act 1989 \(Amendment\) Order 2005 \(S.I. 2005/848\)](#), [art. 20\(4\)\(a\)](#) (with [art. 20\(7\)](#), [Sch. 2](#))
- F10** Word in s. 27(5)(a) substituted (coming into force in accordance with art. 1(3)-(6) of the amending S.I.) by [The Opticians Act 1989 \(Amendment\) Order 2005 \(S.I. 2005/848\)](#), [art. 20\(4\)\(b\)](#) (with [art. 20\(7\)](#), [Sch. 2](#))
- F11** Words in s. 27(5)(b) inserted (coming into force in accordance with art. 1(3)-(6) of the amending S.I.) by [The Opticians Act 1989 \(Amendment\) Order 2005 \(S.I. 2005/848\)](#), [art. 20\(4\)\(c\)](#) (with [art. 20\(7\)](#), [Sch. 2](#))
- F12** S. 27(5)(cc) inserted (S.) (1.4.2002) by [2001 asp 8](#), [s. 79](#), [Sch. 3 para. 16](#); [S.S.I. 2002/162](#), [art. 2](#) (subject to [arts. 3-13](#))
- F13** Word in s. 27(7) substituted (coming into force in accordance with art. 1(3)-(6) of the amending S.I.) by [The Opticians Act 1989 \(Amendment\) Order 2005 \(S.I. 2005/848\)](#), [art. 20\(5\)](#) (with [art. 20\(7\)](#), [Sch. 2](#))
- F14** Words in s. 27(9) inserted (coming into force in accordance with art. 1(3)-(6) of the amending S.I.) by [The Opticians Act 1989 \(Amendment\) Order 2005 \(S.I. 2005/848\)](#), [art. 20\(6\)\(a\)](#) (with [art. 20\(7\)](#), [Sch. 2](#))

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**F15** Words in s. 27(9)(a)(b) inserted (coming into force in accordance with art. 1(3)-(6) of the amending S.I.) by [The Opticians Act 1989 \(Amendment\) Order 2005 \(S.I. 2005/848\)](#), **art. 20(6)(b)** (with art. 20(7), Sch. 2)

**F16** Words in s. 27(10) substituted (coming into force in accordance with art. 1(3)-(6) of the amending S.I.) by [The Opticians Act 1989 \(Amendment\) Order 2005 \(S.I. 2005/848\)](#), **art. 21(1)(2)** (with art. 21(4), Sch. 2)

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**Modifications etc. (not altering text)**

**C1** S. 27: power conferred by s. 27 not yet exercised.

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**Marginal Citations**

**M1** 1978 c.29.

**M2** S.I.1972/1265 (N.I.14).

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 13D(2)(h)(i) inserted by [S.I. 2008/1774 Sch. 2 para. 2](#) (This amendment not applied to legislation.gov.uk. It was due to come into force on the coming into force of s. 44(1) of the Safeguarding Vulnerable Groups Act 2006 (c. 47), see art. 1(4). S. 44(1) was repealed without ever being in force on 10.9.2012 by 2012 c. 9, s. 75(6), Sch. 10 Pt. 5; S.I. 2012/2234, art. 2)
- s. 13AA inserted by [2008 c. 14 Sch. 7 para. 30](#)
- s. 23I inserted by [2008 c. 14 Sch. 7 para. 46](#)
- s. 23AA inserted by [2008 c. 14 Sch. 7 para. 39](#)
- s. 23CA inserted by [2008 c. 14 Sch. 7 para. 42](#)