

*This Statutory Instrument has been made in consequence of a defect in S.I.1989/1176 and is being issued free of charge to all known recipients of that Statutory Instrument.*

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## STATUTORY INSTRUMENTS

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# 1989 No. 1230

## OPTICIANS

### The Sight Testing (Examination and Prescription) (No. 2) Regulations 1989

<i>Made</i>	- - - -	<i>20th July 1989</i>
<i>Laid before Parliament</i>		<i>20th July 1989</i>
<i>Coming into force</i>	- -	<i>31st July 1989</i>

In exercise of powers conferred by section 20B(1), (3) and (8) of the Opticians Act 1958<sup>(1)</sup> and of all other powers enabling me in that behalf, I hereby make the following Regulations:—

#### Citation and commencement **E+W+S**

1. These Regulations may be cited as the Sight Testing (Examination and Prescription) (No. 2) Regulations 1989 and shall come into force on 31st July 1989.

#### Commencement Information

**II** Reg. 1 in force at 31.7.1989, see [reg. 1](#)

#### Interpretation **E+W+S**

2.—(1) In these Regulations, unless the context otherwise requires—

“the Act” means the Opticians Act 1958;

“doctor” means a fully registered person within the meaning of the Medical Act 1983<sup>(2)</sup>[<sup>F1</sup>who holds a licence to practise];

[<sup>F2</sup>“optometrist” means a registered optometrist;]

“patient” means a person whose sight has been tested.

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(1) 1958 c. 32; section 20B was inserted by section 14 of the Health and Medicines Act 1988 (c. 49).

(2) 1983 c. 54.

(2) Unless the context otherwise requires, any reference in these Regulations to a numbered regulation is a reference to the regulation bearing that number in these Regulations, and any reference in a regulation to a numbered paragraph is a reference to the paragraph bearing that number in that regulation.

#### Textual Amendments

- F1** Words in [reg. 2\(1\)](#) inserted (16.11.2009 as notified in the London Gazette dated 21.8.2009) by [The Medical Act 1983 \(Amendment\) Order 2002 \(S.I. 2002/3135\)](#), [art. 1\(2\)\(3\)](#), [Sch. 1 para. 26](#) (with [Sch. 2](#))
- F2** Words in [reg. 2\(1\)](#) substituted (30.6.2005 as notified in the London Gazette dated 3.6.2005) by [The Opticians Act 1989 \(Amendment\) Order 2005 \(S.I. 2005/848\)](#), [Sch. 1 para. 22\(a\)](#)

#### Commencement Information

- I2** Reg. 2 in force at 31.7.1989, see [reg. 1](#)

### Examination **E+W+S**

**3.—(1)** Subject to the exceptions specified in <sup>F3</sup>[<sup>F4</sup>paragraphs (2) and (3)], when a doctor or [<sup>F5</sup>optometrist] tests the sight of another person, it shall be his duty—

- (a) to perform, for the purpose of detecting signs of injury, disease or abnormality in the eye or elsewhere—
- (i) an examination of the external surface of the eye and its immediate vicinity,
  - (ii) an intra-ocular examination, either by means of an ophthalmoscope or by such other means as the doctor or [<sup>F5</sup>optometrist] considers appropriate,
  - (iii) such additional examinations as appear to the doctor or [<sup>F5</sup>optometrist] to be clinically necessary; and
- (b) immediately following the test to give to the patient a written statement—
- (i) that he has carried out the examinations required by sub-paragraph (a) of this paragraph, and
  - (ii) that he is or (as the case may be) is not referring the patient to a doctor, [<sup>F6</sup>and
  - (iii) if he is referring the patient to a doctor, setting out the reason for the referral.]

(2) The provisions of paragraph (1) do not apply where the testing of sight is carried out by a doctor at a hospital or clinic in the course of diagnosing or treating injury or disease of the eye.

<sup>F7</sup>(3) In England, the provisions of paragraph (1)(b)(ii) do not apply where the doctor or [<sup>F5</sup>optometrist] refers the patient to an ophthalmic hospital, [<sup>F8</sup>in accordance with regulation 13(3) of the General Ophthalmic Contracts Regulations 2008.]

<sup>F9</sup>(3) In Scotland, the provisions of paragraphs (1)(b)(ii) do not apply where the doctor or optometrist refers the patient to an ophthalmic hospital, in accordance with paragraph 14(4) of Schedule 1 to the National Health Service (General Ophthalmic Services) (Scotland) Regulations 2006.]

#### Textual Amendments

- F3** Words in [reg. 3\(1\)](#) substituted (S.) (1.4.2006) by [The Sight Testing \(Examination and Prescription\) Amendment \(Scotland\) Regulations 2006 \(S.S.I. 2006/134\)](#), [regs. 1\(1\)](#), [2\(2\)](#)

- F4** Words in [reg. 3\(1\)](#) substituted (E.) (1.4.2005) by [The National Health Service \(General Ophthalmic Services Supplementary List\) and \(General Ophthalmic Services Amendment and Consequential Amendment\) Regulations 2005 \(S.I. 2005/480\)](#), regs. 1(1), [42\(a\)](#)
- F5** Word in [Regulation](#) substituted (30.6.2005 as notified in the London Gazette dated 3.6.2005) by [The Opticians Act 1989 \(Amendment\) Order 2005 \(S.I. 2005/848\)](#), [Sch. 1 para. 22\(b\)](#)
- F6** [Reg. 3\(1\)\(b\)\(iii\)](#) and word added (30.6.2005 as notified in the London Gazette dated 3.6.2005) by [The Opticians Act 1989 \(Amendment\) Order 2005 \(S.I. 2005/848\)](#), [Sch. 1 para. 22\(c\)](#)
- F7** [Reg. 3\(3\)](#) added (E.) (1.4.2005) by [The National Health Service \(General Ophthalmic Services Supplementary List\) and \(General Ophthalmic Services Amendment and Consequential Amendment\) Regulations 2005 \(S.I. 2005/480\)](#), regs. 1(1), [42\(b\)](#)
- F8** Words in [reg. 3\(3\)](#) substituted (E.) (1.8.2008) by [The Primary Ophthalmic Services Amendment, Transitional and Consequential Provisions Regulations 2008 \(S.I. 2008/1700\)](#), reg. 1(2), [Sch. 1 para. 1](#)
- F9** [Reg. 3\(3\)](#) inserted (S.) (1.4.2006) by [The Sight Testing \(Examination and Prescription\) Amendment \(Scotland\) Regulations 2006 \(S.S.I. 2006/134\)](#), regs. 1(1), [2\(3\)](#)

#### Commencement Information

- I3** [Reg. 3](#) in force at 31.7.1989, see [reg. 1](#)

#### Exceptions to the duty to issue a prescription or statement **E+W+S**

4. The duty which section 20B(2) of the Act imposes on doctors and [<sup>F10</sup>optometrists] (to issue a prescription or a statement after testing a patient's sight) shall not arise where—

- (a) the doctor or [<sup>F5</sup>optometrist] who has tested the patient's sight refers the patient to his doctor for further investigation or treatment;
- (b) the sight test was carried out as part of a general medical examination including such an examination for insurance purposes, within the meaning of section 2(1) of the Access to Medical Reports Act 1988(3), or for employment purposes, within the meaning of section 2(1) of that Act; <sup>F11</sup>...
- (c) the patient was resident in a hospital or a clinic, for the purposes of treatment, when his sight was tested [<sup>F12</sup>]; or
- (d) the patient is being fitted with contact lenses as part of the medical or clinical treatment provided for an eye condition.].

#### Textual Amendments

- F5** Word in [Regulation](#) substituted (30.6.2005 as notified in the London Gazette dated 3.6.2005) by [The Opticians Act 1989 \(Amendment\) Order 2005 \(S.I. 2005/848\)](#), [Sch. 1 para. 22\(b\)](#)
- F10** Word in [reg. 4](#) substituted (30.6.2005 as notified in the London Gazette dated 3.6.2005) by [The Opticians Act 1989 \(Amendment\) Order 2005 \(S.I. 2005/848\)](#), [Sch. 1 para. 22\(d\)](#)
- F11** Word in [reg. 4\(b\)](#) omitted (30.6.2005) by virtue of [The Contact Lens \(Specification\) and Miscellaneous Amendments Regulations 2005 \(S.I. 2005/1481\)](#), regs. 1(1), [5\(a\)](#)
- F12** [Reg. 4\(d\)](#) and word inserted (30.6.2005) by [The Contact Lens \(Specification\) and Miscellaneous Amendments Regulations 2005 \(S.I. 2005/1481\)](#), regs. 1(1), [5\(b\)](#)

#### Commencement Information

- I4** [Reg. 4](#) in force at 31.7.1989, see [reg. 1](#)

## Particulars to be included in a prescription or statement **E+W+S**

5.—(1) A prescription provided in fulfilment of the duty imposed by section 20B(2) of the Act shall include—

- (a) particulars of any spherical power of each lens to be included in the appliance prescribed and, where appropriate, particulars of the cylindrical power (including particulars of its axis), prismatic power (including particulars of the orientation of the prism) and near addition of each such lens [<sup>F13</sup>and such other particulars as may be necessary to enable each lens to be replicated];
- (b) the date of the testing of sight;
- (c) the name and address of the patient and, if he is under the age of 16, his date of birth;
- (d) the name and practice address of the doctor or [<sup>F5</sup>optometrist] who carried out the testing of sight;
- (e) the address at which, or the name of the hospital, clinic, nursing home or other institution at which, the testing of sight was carried out; and
- (f) where the patient, before his sight was tested, had been prescribed an optical appliance and the doctor or [<sup>F5</sup>optometrist] is satisfied that the particulars of the prescription specified in sub-paragraph (a) of this paragraph are—
  - (i) the same as those relating to that appliance, or
  - (ii) different from those relating to that appliance but not so as to necessitate, in the opinion of the doctor or [<sup>F5</sup>optometrist], a change in that appliance a statement to the effect that no change in the patient's existing appliance is necessary.

(2) The statement provided in fulfilment of the duty imposed by section 20B(2) of the Act shall (in addition to stating that the patient does not need to wear or use an optical appliance) include the particulars specified in paragraph (1)(b), (c), (d) and (e).

### Textual Amendments

- F5** Word in [Regulation](#) substituted (30.6.2005 as notified in the London Gazette dated 3.6.2005) by [The Opticians Act 1989 \(Amendment\) Order 2005 \(S.I. 2005/848\)](#), [Sch. 1 para. 22\(b\)](#)
- F13** Words in [reg. 5\(1\)\(a\)](#) added (30.6.2005 as notified in the London Gazette dated 3.6.2005) by [The Opticians Act 1989 \(Amendment\) Order 2005 \(S.I. 2005/848\)](#), [Sch. 1 para. 22\(e\)](#)

### Commencement Information

- I5** Reg. 5 in force at 31.7.1989, see [reg. 1](#)

## Revocation **E+W+S**

6. The Sight Testing (Examination and Prescription) Regulations 1989(4) are hereby revoked.

### Commencement Information

- I6** Reg. 6 in force at 31.7.1989, see [reg. 1](#)

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**Changes to legislation:** *There are currently no known outstanding effects for the The Sight Testing (Examination and Prescription) (No. 2) Regulations 1989. (See end of Document for details)*

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*K. Clarke*  
One of Her Majesty's Principal Secretaries of  
State

**Changes to legislation:** There are currently no known outstanding effects for the The Sight Testing (Examination and Prescription) (No. 2) Regulations 1989. (See end of Document for details)

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision as to the requirements to be met by registered medical practitioners and ophthalmic opticians (optometrists) on testing a person's sight.

Regulation 3(1) requires the sight tester to perform certain examinations and to give the patient a statement that he has carried out the examinations and as to whether the patient is being referred to a registered medical practitioner. There is an exception where the sight test is carried out in the course of diagnosing or treating injury or disease in hospital or at a clinic. Regulation 4 specifies exceptions to the sight tester's statutory duty to issue a prescription for an optical appliance or a statement that no optical appliance is required. Regulation 5 specifies the particulars which must be included in any prescription or statement that is issued.

Regulation 6 revokes the Sight Testing (Examination and Prescription) Regulations 1989 which were intended to have the same effect as these Regulations and were in the same terms but which were affected by a defect in the order which was intended to bring into force the powers under which they were made.

**Changes to legislation:**

There are currently no known outstanding effects for the The Sight Testing (Examination and Prescription) (No. 2) Regulations 1989.