

**EXPLANATORY MEMORANDUM TO**  
**THE NATIONAL HEALTH SERVICE (AMENDMENTS RELATING TO OPTICAL**  
**CHARGES AND PAYMENTS) REGULATIONS 2009**

**2009 No. 409**

1. This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the Instrument**
  - 2.1. The National Health Service (Optical Charges and Payments) Amendment Regulations 2009 (the Amendment Regulations) amend the National Health Service (Optical Charges and Payments) Regulations 1997 (S.I. 1997/818) (“the Optical Regulations”), and the Primary Ophthalmic Services Regulations 2008 (the POS Regulations) (S.I.2008/1186).
  - 2.2. The Optical Regulations provide for optical vouchers to be given to eligible members of the public to help with the cost of glasses or contact lenses. The value of these vouchers is uprated annually to protect the purchasing power of optical vouchers, taking into account inflationary trends and costs to the NHS. This statutory instrument increases the value of the various vouchers for the 2009/2010 financial year by an overall 2%.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 In the Thirtieth Report of Session 2007 – 08 the Joint Committee on Statutory Instruments reported regulation 3(2)(b) of the Primary Ophthalmic Services and National Health Service (Optical Charges and Payments) Amendment Regulations 2008 (S.I. 2008/2449) for defective drafting in relation to a substituted definition of “prisoner”. The Department acknowledged in a memorandum printed at Appendix 2 to the Thirtieth Report that the new definition was incomplete, and undertook to rectify the omission at the earliest practicable date, in a particular manner.
  - 3.2 On further consideration the Department has taken the view that the defect can be remedied in a different way from that suggested in the memorandum.
4. **Legislative Context**
  - 4.1 Regulation 2(2) of the Amendment Regulations amends the definition of “NHS sight tests” in regulation 1 of the Optical Regulations to make reference to an increase in the fee payable to General Ophthalmic Services Contractors for providing NHS sight tests of 2.3%, and substitutes a new definition for “prisoner”.
  - 4.2 Regulation 2(3) and 4 of the Amendment Regulations amends Regulation 8 of the Optical Regulations and Regulation 3 of the POS Regulations to increase the amount of income used as the basis for calculating entitlement to optical vouchers and in

relation to sight tests respectively. This amount is based on the amount of income a person may earn and remain entitled to receive tax credits under the Tax Credits Act 2002. This figure has recently increased from £15,050 to £15,276 and the Optical Regulations and the POS Regulations have been amended to take account of this increase.

- 4.3 Amending Regulation 2(5) to (7) amends the Schedules of the Optical Regulations to increase the value of vouchers issued towards the costs of supply and replacement of glasses and contact lenses, to increase the additional values for prisms, tints, photochromic lenses and special categories of appliances. These regulations also increase the value of vouchers issued towards the cost of the repair and replacement of optical appliances. The rate of increase in the value of these vouchers is an overall 2.0%.

## **5 Territorial Extent and Application**

- 5.1 This instrument applies to England.

## **6. European Convention on Human Rights**

As the instrument is subject to the negative resolution procedure and does not amend primary legislation no statement is required.

## **7. Policy background**

- 7.1 Children and people who satisfy certain eligibility criteria are entitled to free NHS sight tests. The NHS sight test fee is increased by payments and charges directions made by the Secretary of State for Health under section 120 of the National Health Service Act 2006. This fee is increased annually. The annual increase for the 2009/2010 financial year is 2.3%. The Optical Regulations are amended by the Amendment Regulations to make reference to this increase to assist PCTs in calculating the maximum amount payable in respect of people entitled to partial help with the cost of a sight test.
- 7.2 One of the eligibility criteria for free NHS funded sight tests and optical vouchers is receipt of tax credits. The Amendment Regulations amends the Optical Regulations and the POS Regulations to take account of the increase in the income threshold for calculating entitlement to tax credits.
- 7.3 Persons who satisfy certain eligibility criteria are also entitled to financial assistance towards the cost of glasses or contact lenses, and with the cost of the replacement and repair of spectacle frames. This financial assistance is provided by way of optical vouchers which are given to eligible persons to use towards purchasing glasses or contact lenses. The optical voucher is presented to the optical supplier as payment for glasses or contact lenses and is signed by the eligible person. The voucher is then submitted by the optical supplier to the Primary Care Trust for payment. The values of the various optical vouchers are reviewed annually and increased if necessary. The

affect of the Amendment Regulations is to increase the value of these optical vouchers by an overall 2.0% approximately.

- 7.4 The value of vouchers for glasses and contact lenses is determined by the strength of the optical prescription required by the patient (the lens power in the glasses or contact lenses). There are 10 voucher bands covering the range of prescriptions ranging in value from £36.20 to £200.10 at 2009/10 prices. The value of the voucher can either be used by a patient to buy a pair of spectacles from a basic range, or can, if a patient chooses, be put towards a more expensive pair of spectacles or lenses.
- 7.5 The Amendment Regulations also amend the definition of “prisoner” in the Optical Regulations following an incomplete definition of ‘prisoner’ being inserted into these Regulations by the Primary Ophthalmic Services and National Health Service (Optical Charges and Payments) Amendment Regulations 2008 (S.I. 2008/2449).

## **Consolidation**

- 7.6 There are currently no plans to consolidate the Optical Regulations.

## **8. Consultation outcome**

- 8.1 The instrument implements annual increases to the value of optical vouchers so have not been the subject of consultation.
- 8.2 The optical trade associations are members of a group known as the Optical Voucher Consultative Committee (OVCC). The Department requests information from OVCC on any issues relating to the purchasing power of optical vouchers before considering voucher increases. No issues have been brought to the attention of the Department this year.

## **9. Guidance**

- 9.1 Primary Care Trusts, NHS Trusts and the optical profession will be advised of the new charges by way of a letter and through the Department of Health and NHS Primary Care Contracting websites.

## **10. Impact**

- 10.1 An Impact Assessment has not been produced for this Instrument as it has no impact on the cost of business, charities or voluntary bodies.

## **11. Regulating small business**

- 11.1 The instrument does not regulate small business.

## **12. Monitoring and review**

- 12.1 The Optical Regulations, as amended, are subject to annual review.

### **13. Contact**

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can answer any queries regarding this instrument.