
STATUTORY INSTRUMENTS

2013 No. 461

The National Health Service (Optical Charges and Payments) Regulations 2013

PART 6

CESSATION OF PAYMENTS

Notice as to cessation of payments

21.—(1) No payment must be made in any of the circumstances set out in paragraph (2), where a notice has been given under paragraph (3) or (4), from the date specified in that notice.

(2) The circumstances mentioned in paragraph (1) are that—

- (a) in the judgement of the Board, the supplier is not a suitable person to receive public funds from it;
- (b) the supplier has failed to comply with conditions determined by the Secretary of State pursuant to section 180(11) of the 2006 Act (payments in respect of costs of optical appliances and sight tests); or
- (c) the supplier or, if the supplier is a corporate body, any director, chief executive or secretary of the supplier, or if the supplier is a partnership any partner, has been removed from an ophthalmic performers list on the grounds mentioned in section 151(3) of the 2006 Act (disqualification of practitioners) or from an ophthalmic list under a provision corresponding to that section.

(3) In a case to which paragraph (2)(a) applies, the Secretary of State may give notice to the supplier under section 181(3) of the 2006 Act (section 180: supplementary) that no further payments may be made by the Board to that supplier from the date specified in the notice, which must be a month after the date of that notice.

(4) In a case to which paragraph (2)(b) or (c) applies, the Secretary of State must give notice to the supplier under section 181(3) of the 2006 Act that no further payments may be made by the Board to that supplier from the date specified in the notice, which must be the date of that notice.

(5) Subject to paragraph (7), in any case where notice has been given under either paragraph (3) or (4)—

- (a) the Secretary of State may apply to the First-tier Tribunal for a stop order in relation to that supplier and must notify the supplier of that application; and
- (b) the supplier may appeal to the First-tier Tribunal, whether or not the Secretary of State applies for a stop order, provided it does so within 28 days of receipt of the notice.

(6) On appeal the First-tier Tribunal may make any decision that the Secretary of State could have made.

(7) In a case where—

- (a) paragraph (2)(c) applies and notice has been given under paragraph (4); and

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- (b) that person is subject to a national disqualification under section 159 of the 2006 Act (national disqualification) or provisions corresponding to that section,

the Secretary of State must apply to the First-Tier Tribunal for a stop order and must notify the supplier of that application.

- (8) A notice under paragraph (3) must state—
 - (a) the reasons why that supplier is judged not to be suitable; and
 - (b) that the supplier has the right of appeal set out in paragraph (5)(b) and how to exercise that right.
- (9) A notice under paragraph (4) must state—
 - (a) in a case to which paragraph (2)(b) applies, the condition the supplier has failed to comply with; or
 - (b) in a case to which paragraph (2)(c) applies, which of the circumstances specified in that paragraph apply and the person to whom they apply; and
 - (c) that the supplier has the right of appeal set out in paragraph (5)(b) and how to exercise that right.
- (10) In this Part—
 - (a) “notify” means to notify in writing (including electronically) and “notice” shall be construed accordingly; and
 - (b) “payment” means payment in accordance with regulation 14 or 19.

Reviews of stop notices

22.—(1) The Secretary of State must review a notice in a case to which regulation 21(2)(a) applies, if—

- (a) the supplier requests it; and
- (b) more than two years have elapsed since either the notice was given or the last review took place, whichever is the later, and if in the judgement of the Board the supplier is then a suitable person to receive public funds from it, the Secretary of State must cancel that notice.

(2) Where a notice has been given in a case to which regulation 21(2)(b) applies and the supplier considers that it has now complied with the condition specified in that notice, the Secretary of State must, if requested to do so by the supplier, review that notice and, if satisfied as a result of the review that the supplier has complied with the condition, cancel the notice.

(3) In any case where a review has been conducted under paragraph (2), that supplier may not request a further review until a period of 12 months has elapsed since the last review.

- (4) Where a notice has been given in a case to which regulation 21(2)(c) applies and—
 - (a) the person stated in that notice has since been restored to the list from which they were removed;
 - (b) the supplier is a partnership, and the person stated in the notice was a partner in that partnership but has now ceased to be so; or
 - (c) the supplier is a corporate body and the person stated in the notice was a director, chief executive or secretary of that corporate body but has now ceased to be so, the Secretary of State must, if requested to do so by the supplier, review that notice and may, if considered appropriate in the Secretary of State's judgement, cancel that notice.

(5) If, as a result of a review under paragraph (1), (2) or (4), the Secretary of State does not cancel that notice, the supplier may appeal to the First-tier Tribunal within 28 days of receipt of the Secretary of State's decision.

(6) Nothing in this regulation affects the ability of the Secretary of State to cancel a notice under section 181(5) of the 2006 Act (section 180: supplementary) without the supplier having requested a review.

Reviews of stop orders

23.—(1) The First-tier Tribunal may review a stop order at the request of the supplier upon which the order has been imposed, and on such a review may confirm the order or revoke it.

(2) Subject to paragraphs (3) and (4), the supplier may not request a review of a stop order before the end of the period of two years beginning with the date—

- (a) on which the stop order was imposed; or
- (b) of the First-tier Tribunal's decision on the last such review, whichever is the later.

(3) If, on making a decision to impose or confirm a stop order, the First-tier Tribunal is of the opinion that there is no realistic prospect of a review or a further review as the case may be, being successful if held within the period specified in paragraph (2), the reference to “two years” shall be a reference—

- (a) to five years, or
- (b) to such shorter period, being more than two years, as the First-tier Tribunal may determine.

(4) If, on a review, the First-tier Tribunal is of the opinion that there is a realistic prospect of a further review being successful if held within a shorter period than that specified in paragraph (2), the reference to “two years” shall be a reference to “one year”.

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

- blanket amendment words substituted by [S.I. 2023/1071 Sch. para. 1](#)

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

- reg. 5(2)(b)(iii) and word inserted by [S.I. 2023/848 reg. 4\(3\)\(b\)](#)
- reg. 5(3) inserted by [S.I. 2023/848 reg. 4\(4\)](#)
- reg. 9(1A) inserted by [S.I. 2023/848 reg. 4\(5\)\(b\)](#)
- reg. 14(3) inserted by [S.I. 2023/848 reg. 4\(7\)\(c\)](#)
- reg. 19(3) inserted by [S.I. 2023/848 reg. 4\(9\)\(b\)](#)
- reg. 26(3) inserted by [S.I. 2023/848 reg. 4\(10\)\(b\)](#)