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SCOTTISH STATUTORY INSTRUMENTS

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**2015 No. 219**

**NATIONAL HEALTH SERVICE**

**The National Health Service (Optical Charges  
and Payments and General Ophthalmic Services)  
(Scotland) Amendment Regulations 2015**

<i>Made</i>	- - - -	<i>27th May 2015</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>29th May 2015</i>
<i>Coming into force</i>	- -	<i>1st July 2015</i>

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 26, 34, 105(7) and 106(a) of the National Health Service (Scotland) Act 1978(1), and all other powers enabling them to do so.

**Citation and commencement**

1. These Regulations may be cited as the National Health Service (Optical Charges and Payments and General Ophthalmic Services) (Scotland) Amendment Regulations 2015 and come into force on 1st July 2015.

**Amendment of the National Health Service (Optical Charges and Payments) (Scotland) Regulations 1988**

2.—(1) The National Health Service (Optical Charges and Payments) (Scotland) Regulations 1988(2) are amended as follows.

(2) In regulation 1 (citation, commencement and interpretation), after the definition of “disability element”(3) insert—

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- (1) 1978 c.29; section 26 was amended by the Health and Social Security Act 1984 (c.48) section 1(5) and (7) and Part II of Schedule 1, the Health and Medicines Act 1988 (c.49) section 13(4), and the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13) sections 13(2) and 19; section 105(7) was amended by the Health Services Act 1980 (c.53) Schedule 6, paragraph 5(1) and Schedule 7, the Health and Social Services and Social Security Adjudications Act 1983 (c.41) Schedule 9, Part I, paragraph 24 and the Health Act 1999 (c.8) Schedule 4, paragraph 60; section 108(1) contains definitions of “prescribed” and “regulations” relevant to the exercise of the statutory powers under which these Regulations are made. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).
- (2) S.I. 1998/642; amended by S.I. 1999/748, S.S.I. 1999/64, S.S.I. 2000/45, S.S.I. 2000/395, S.S.I. 2001/88, S.S.I. 2002/17, S.S.I. 2002/86, S.S.I. 2002/224, S.S.I. 2003/218, S.S.I. 2003/431, S.S.I. 2004/97, S.S.I. 2004/168, S.S.I. 2005/119, S.S.I. 2006/138, S.S.I. 2007/192, S.S.I. 2008/106, S.S.I. 2008/289, S.S.I. 2009/86, S.S.I. 2009/288, S.S.I. 2011/55, S.S.I. 2012/73, S.S.I. 2013/96, S.S.I. 2014/61 and S.S.I. 2015/86.
- (3) The definition of “disability element” was inserted by S.S.I. 2003/218.

““electronic communication” has the meaning given by section 15(1) of the Electronic Communications Act 2000(4);”.

- (3) In regulation 13 (payments to suppliers)—
- (a) in paragraph (2)(c)(ii), after “payment” insert “either by means of electronic communication in accordance with paragraph (2A) or”; and
  - (b) after paragraph (2), insert—
    - “(2A) A claim made by means of electronic communication shall—
      - (a) be submitted using such computer programme as the responsible authority has approved as suitable for that purpose;
      - (b) confirm the matters referred to in paragraph (2)(c)(iii) and (iv), where applicable; and
      - (c) contain the personal identification number that has been allocated to the supplier by the responsible authority.”.
- (4) In regulation 18 (payments to suppliers for replacement or repair)—
- (a) in paragraph (2)(b)(iii), after “payment” insert “either by means of electronic communication in accordance with paragraph (2A) or”;
  - (b) after paragraph (2), insert—
    - “(2A) A claim made by means of electronic communication shall—
      - (a) be submitted using such computer programme as the responsible authority has approved as suitable for that purpose;
      - (b) confirm the amount of contribution referred to in paragraph (2)(b)(iv), if any; and
      - (c) contain the personal identification number that has been allocated to the supplier by the responsible authority.”.

### **Amendment of the National Health Service (General Ophthalmic Services) (Scotland) Regulations 2006**

3.—(1) The National Health Service (General Ophthalmic Services) (Scotland) Regulations 2006(5) are amended as follows.

- (2) In regulation 2(1) (interpretation)—
- (a) after the definition of “EEA State”(6) insert—
    - ““electronic communication” has the meaning given by section 15(1) of the Electronic Communications Act 2000;”;
  - (b) after the definition of “patient” insert—
    - ““patient practice record form” means a form supplied by a Health Board which contains a declaration for the purposes of payment in respect of an eye examination by, or on behalf of, a person who applies to have such an examination;”;
  - (c) in the definition of “writing”, for “mail” substitute “communication”.
- (3) In regulation 22 (application for an eye examination)—
- (a) in paragraph (2), after the second “shall” insert “, other than where paragraph (2A) applies;”;

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(4) 2000 c.7; section 15(1) was amended by the Communications Act 2003 (c.21), Schedule 17, paragraph 158.

(5) S.S.I. 2006/135; relevant amending instruments are S.S.I. 2007/193, S.S.I. 2010/86, S.S.I. 2013/177 and S.S.I. 2013/355.

(6) The definition of “EEA state” was inserted by S.S.I. 2013/177.

- (b) after paragraph (2) insert—
  - “(2A) This paragraph applies where an eye examination form is submitted by means of electronic communication.
  - (2B) A person who submits an eye examination form by means of electronic communication shall complete a patient practice record form.”
- (4) In regulation 23 (application on behalf of children or incapable persons), after paragraph (2) insert—
  - “(3) Paragraphs (1) and (2) apply to the completion of a patient practice record form as they apply to the making of an application for an eye examination and the giving of a signature.”
- (5) In paragraph 13 (payments) of Schedule 1 (terms of service)—
  - (a) after sub-paragraph (1), insert—
    - “(1A) Any such claim shall be submitted in accordance with either sub-paragraphs (2) and (3), or sub-paragraphs (3A) and (3B)”;
  - (b) in sub-paragraph (2), for “Any such claim” substitute “The claim shall be submitted by post or by hand”; and
  - (c) after sub-paragraph (3) insert—
    - “(3A) The claim shall be submitted by electronic communication and—
      - (a) if the service was provided on behalf of a contractor by a deputy or employee who is also a contractor, the claim shall contain the PIN allocated to that deputy or employee;
      - (b) if the service was provided on behalf of a contractor by a person whose name is included in the second part of the Ophthalmic List, the claim shall contain the PIN allocated to that person; and
      - (c) in all other cases, the claim shall contain the PIN allocated to the contractor providing the service.
    - (3B) When submitting a claim by means of electronic communication under sub-paragraph (3A) a person shall make use only of such computer programme as the Agency has approved as suitable for that purpose.
    - (3C) In this paragraph, “PIN” means the personal identification number allocated by the Agency.”

St Andrew’s House,  
Edinburgh  
27th May 2015

*MAUREEN WATT*  
Authorised to sign by the Scottish Ministers

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

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

These Regulations amend the National Health Service (Optical Charges and Payments) (Scotland) Regulations 1998 (“the 1998 Regulations”) which provide for payments to be made by means of a voucher system, in respect of costs incurred by certain categories of persons in connection with the supply, replacement and repair of optical appliances. These Regulations also amend the National Health Service (General Ophthalmic Services) (Scotland) Regulations 2006 (“the 2006 Regulations”) which provide for arrangements in relation to general ophthalmic services under the National Health Service in Scotland, and for the preparation and maintenance by each Health Board of an Ophthalmic List.

The 1998 Regulations are amended to allow suppliers to make claims for payment electronically. Therefore amendments are made to regulation 13 of the 1998 Regulations in relation to claims for supply of appliances and regulation 18 of the 1998 Regulations in relation to claims for replacement or repair of appliances. A definition of “electronic communication” is inserted into regulation 1 of the 1998 Regulations (regulation 2).

The 2006 Regulations are amended to allow claims in relation to services provided in connection with eye examinations to be made electronically. In such cases there are requirements in relation to completion of patient practice record forms and the use of a personal identification number when making a claim and regulations 22 and 23 and paragraph 13 of Schedule 1 to the 2006 Regulations are amended accordingly (regulation 2). Amendments are also made to regulation 2 on interpretation as a consequence.