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STATUTORY RULES OF NORTHERN IRELAND

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**2007 No. 436**

**HEALTH AND PERSONAL SOCIAL SERVICES**

**General Ophthalmic Services  
Regulations (Northern Ireland) 2007**

*Made* - - - - *15th October 2007*

*Coming into operation* *9th November 2007*

The Department of Health, Social Services and Public Safety<sup>(1)</sup> makes the following Regulations in exercise of the powers conferred by Articles 26(2), 62, 95, 106 and 107(6) of, and paragraph 7(5) of Schedule 3 and paragraph 13 of Schedule 11 to, the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(2)</sup> and in conjunction with the Department of Finance and Personnel<sup>(3)</sup>.

In accordance with Article 62(3) of that Order it has consulted with such organisations as appeared to the Department to be representative of medical practitioners practising as ophthalmic medical practitioners, and ophthalmic opticians.

**Citation and commencement**

1. These Regulations may be cited as the General Ophthalmic Services Regulations (Northern Ireland) 2007 and shall come into operation on 9th November 2007.

**Commencement Information**

**II** Reg. 1 in operation at 9.11.2007, see [reg. 1](#)

**Interpretation**

2. In these Regulations —

“the Charges Regulations” means the Charges for Drugs and Appliances Regulations (Northern Ireland) 1997<sup>(4)</sup>;

“the Order” means the Health and Personal Social Services (Northern Ireland) Order 1972;

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(1) See [S.I. 1999/238 \(N.I. 1\)](#) Article 3(6)

(2) [S.I. 1972/1265 \(N.I. 14\)](#); Article 62 was amended by Article 13 of [S.I. 1978/1907 \(N.I. 26\)](#), Articles 3 and 17 of, and Schedules 1 and 6 to [S.I. 1984/1158 \(N.I. 8\)](#), Article 8 of [S.I. 1988/2249 \(N.I. 24\)](#), Articles 34 and 35 of, and Schedules 5 and 6 to [S.I. 1991/194 \(N.I. 1\)](#) and Article 41(4) of [2001 c. 3](#) and modified by regulation 24(2)(c) of [S.R. 2004 No. 259](#)

(3) Formerly Department of Finance: See [S.I. 1982/338 \(N.I. 6\)](#) Art. 3

(4) [S.R. 1997 No. 382](#)

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“the Remission Regulations” means the Travelling Expenses and Remission of Charges Regulations (Northern Ireland) 2004<sup>(5)</sup>;

“authority” has the meaning given to it by the Children (Northern Ireland) Order 1995<sup>(6)</sup>;

“Board” means a Health and Social Services Board;

“capital limit” means the amount prescribed for the purposes of section 130(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992<sup>(7)</sup> as it applies to income support;

“child tax credit” means child tax credit under section 8 of the Tax Credits Act 2002<sup>(8)</sup>;

“Committee” means the Ophthalmic Committee, constituted under regulation 3;

“complex appliance” means an optical appliance at least one lens of which —

- (a) has a power in any one meridian of plus or minus 10 or more dioptries, or
- (b) is a prism controlled bifocal lens;

“contractor” means a person who has undertaken to provide general ophthalmic services and whose name is included in the ophthalmic list;

“deputy” means an ophthalmic medical practitioner or optician, who is included in the ophthalmic list and assists in the provision of general ophthalmic services;

“director” means —

- (a) a director of a body corporate; or
- (b) a member of the body of persons controlling a body corporate;

“disability element” means the disability element of working tax credit as specified in section 11(3) of the Tax Credits Act 2002;

“doctor” means a medical practitioner;

“eligible person” means a person who, in accordance with regulation 16, may have his sight tested under general ophthalmic services;

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...

- (a)
- (b)
- (c)

“general ophthalmic services” means the services which a contractor must provide pursuant to paragraph 14 of the terms of service;

“income-based jobseekers allowance” has the meaning given to it by Article 3(4) of the Jobseekers (Northern Ireland) Order 1995<sup>(9)</sup>;

“income support” means income support under Part VII of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 and includes personal expenses addition, special transitional addition and transitional addition as defined in regulation 2(1) of the Income Support (Transitional) Regulations (Northern Ireland) 1987<sup>(10)</sup>;

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(5) S.R. 2004 No. 91

(6) S.I. 1995/755 (N.I. 2)

(7) 1992 c.7; regulation 45 of the Income Support (General) Regulations (Northern Ireland) 1987 (S.R. 1987 No. 459) as amended by regulation 2(4) of S.R. 2005 No. 424 has prescribed the amount of £16,000 as the capital limit

(8) 2002 c. 21

(9) S.I. 1995/2705 (N.I.15); Article 3(4) was amended by paragraph 3(4)(a) of Schedule 7 to the Welfare and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11))

(10) S.R. 1987 No. 460

“juvenile justice centre” has the meaning given by Article 51(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998<sup>(11)</sup>;

“Local Optical Committee” means the committee recognised by the Department under Article 55 of the Order;

“mobile practice” means a contractor who has made arrangements with the Board to provide mobile services and does not have practice premises in its area;

“mobile services” means general ophthalmic services provided at a location, other than the contractor’s practice premises, which a contractor has made arrangements with the Board to provide in its area;

“notice of entitlement” means a notice issued under regulation 8 of the Remission Regulations for the purposes of remission of charges under the Order;

“ophthalmic hospital” includes an ophthalmic department of a hospital;

“ophthalmic list” means the list prepared by the Agency under regulation 8;

“ophthalmic medical practitioner” means a doctor whose qualifications have in accordance with regulation 6 or regulation 7 been approved as being prescribed qualifications;

“Ophthalmic Qualifications Committee” means the Advisory Committee appointed under Article 25 of the Order after consultation with each Board and such organisation as may be recognised by the Department as representing medical practitioners, for the purposes of approving —

- (a) ophthalmic hospitals, academic degrees, academic or post graduate courses in ophthalmology and appointments affording special opportunities for acquiring the necessary skill and experience of the kind required for the provision of general ophthalmic services; and
- (b) the qualifications of doctors for the purpose of the general ophthalmic services;

“optician” means an ophthalmic optician;

“patient” means a person for whom a contractor has agreed to provide general ophthalmic services;

“pension credit guarantee credit” shall be construed in accordance with sections 1 and 2 of the State Pension Credit Act (Northern Ireland) 2002<sup>(12)</sup>;

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...

“qualifications” includes qualifications as to experience;

“qualifying full-time education” has the meaning given to it by Article 62(4) of the Order;

“relevant income” has the same meaning as in section 7(3) of the Tax Credits Act 2002;

“severe disability element” means the severe disability element of working tax credit specified in section 11(6)(d) of the Tax Credits Act 2002;

“sight test form” means a form which, in accordance with the Statement, is to be completed for the purposes of payments in respect of a sight test;

“suspended by direction of the Tribunal” means suspended as respects the provision of general ophthalmic services to patients by a direction of the Tribunal made pursuant to paragraph 9(3) or paragraph 10(1) of Schedule 11 to the Order or to any provisions in force in England, Scotland or Wales corresponding to those provisions;

“terms of service” means the terms set out in Schedule 1;

“the Statement” has the meaning assigned to it in regulation 12(1);

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(11) S.I. 1998/1504 (N.I. 9)

(12) 2002 c.14

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“working tax credit” means working tax credit under section 10 of the Tax Credits Act 2002.

**F1** Words in [reg. 2](#) omitted (1.4.2009) by virtue of [The General Ophthalmic Services \(Amendment No. 2\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/152\)](#), [regs. 1\(1\), 2](#)

**Commencement Information**

**I2** Reg. 2 in operation at 9.11.2007, see [reg. 1](#)

### Constitution of Ophthalmic Committee

**3.** The provisions set out in Schedule 2 shall apply to the Committee which shall be appointed by the Agency for the purpose of advising and assisting the Agency in the duties assigned to it by these regulations.

**Commencement Information**

**I3** Reg. 3 in operation at 9.11.2007, see [reg. 1](#)

### Delegation of duties

**4.** The Committee may delegate to an officer of the Agency such of its duties with respect to general ophthalmic services as it thinks fit.

**Commencement Information**

**I4** Reg. 4 in operation at 9.11.2007, see [reg. 1](#)

### Qualifications of ophthalmic medical practitioners

**5.—(1)** The prescribed qualifications which a doctor is to possess for the purposes of Article 62 of the Order (arrangements for general ophthalmic services) are that he has (at the date of consideration of his application under regulation 6) recent experience and either—

(a) has—

(i) held an appointment in the health services, otherwise than under Part VI of the Order, with the status of consultant ophthalmologist; or an appointment for a period of not less than two years of equivalent status as an ophthalmic surgeon or assistant ophthalmic surgeon on the staff of an approved ophthalmic hospital; and

(ii) had adequate experience; or

(b) has —

(i) held an ophthalmic appointment or an appointment in an approved ophthalmic hospital, for a period totalling not less than two years, including therein tenure for a period of not less than 6 months of a residential appointment or an appointment with duties comparable with those of a residential appointment (provided that such tenure for 6 months of a residential or comparable appointment shall not be required in the case of a doctor who has been fully registered for at least seven years and whose experience is such as to make that requirement unnecessary);

(ii) obtained the Membership of the Royal College of Ophthalmologists, or any approved higher degree or qualification, and

(iii) had adequate experience.

(2) In this regulation “approved” means approved by the Ophthalmic Qualifications Committee.

**Commencement Information**

**I5** Reg. 5 in operation at 9.11.2007, see [reg. 1](#)

**Approval of qualifications of ophthalmic medical practitioners**

6.—(1) A doctor who wishes to establish his status as an ophthalmic medical practitioner shall apply to the Department for approval of his qualifications and experience, and shall give such particulars of his qualifications and experience as the Ophthalmic Qualifications Committee shall require.

(2) The Ophthalmic Qualifications Committee shall consider the doctor’s application and within two months after the date of the application shall inform the Department of their decision.

(3) If the Ophthalmic Qualifications Committee is satisfied that the doctor possesses the qualifications prescribed by regulation 5, he shall be an ophthalmic medical practitioner and the Department shall notify him accordingly.

(4) Notwithstanding the provisions of regulation 5 and of paragraph (1) a doctor who has the prescribed qualifications for the purposes of providing general ophthalmic services in England under the National Health Service Act 1977(**13**), in Scotland under the National Health Service (Scotland) Act 1978(**14**) or in Wales under the National Health Service (Wales) Act 2006(**15**), shall be an ophthalmic medical practitioner.

(5) For the purposes of paragraph (2) the date of the application shall be —

- (a) the date upon which a completed application with all necessary supporting details is received by the Ophthalmic Qualifications Committee; or
- (b) if the Ophthalmic Qualifications Committee require any further particulars from the applicant, the date on which the Ophthalmic Qualifications Committee receive all the particulars which it requires.

**Commencement Information**

**I6** Reg. 6 in operation at 9.11.2007, see [reg. 1](#)

**Appeals against decisions of Ophthalmic Qualifications Committee**

7.—(1) Any person dissatisfied with a decision of the Ophthalmic Qualifications Committee that he is not qualified to be an ophthalmic medical practitioner may within one month from and including the date on which he received notice of that decision, or such longer period as the Department may at any time allow, appeal against the decision by sending to the Department a notice of appeal stating the facts and contentions on which he relies.

(2) The Department shall —

- (a) appoint to determine the appeal an appeal committee of five persons of whom at least three shall be appointed after consultation with such bodies or organisations representing doctors as appear to it to be concerned;

(13) 1977 c.49  
(14) 1978 c.29  
(15) 2006 c.42

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- (b) refer the appeal to that appeal committee;
- (c) send a copy of the notice of appeal to the Ophthalmic Qualifications Committee and to such other persons as may appear to it to be interested in the appeal; and
- (d) inform the appellant, the Ophthalmic Qualifications Committee, the Agency and any such other persons that the appeal has been referred to an appeal committee and of the address to which communications to the appeal committee shall be sent.

(3) The appeal committee may, and if requested to do so by the appellant or the Ophthalmic Qualifications Committee shall, hold a hearing in connection with an appeal at such time and place as they may direct; notice of the hearing shall, not less than fourteen days before the date of the hearing, be sent by the recorded delivery service to the appellant, the Ophthalmic Qualifications Committee, and any other person to whom the Department has under paragraph (2) sent notice of the appeal.

(4) Either the appellant or the Ophthalmic Qualifications Committee may within one month of being informed that the appeal has been referred to an appeal committee, or of being informed that a hearing of such appeal will be held, give notice of a wish to appear before the appeal committee.

(5) The Ophthalmic Qualifications Committee shall be entitled to appear by a member or by their clerk or other officer duly appointed for the purpose; the appellant shall be entitled to appear in person, by any member of his family, by any friend, or by any officer or member of any organisation of which he is a member; and any party to an appeal shall be entitled to appear and be heard by counsel or solicitor.

(6) Subject to the preceding provisions of this regulation, the procedure of the appeal committee in determining the appeal shall be such as it thinks proper.

(7) An appeal committee shall have all the powers of the Ophthalmic Qualifications Committee, including in particular the power of approval, and if satisfied that an appellant possesses the qualifications prescribed by regulation 5 it shall so determine and accordingly he shall be an ophthalmic medical practitioner.

(8) The appeal committee shall as soon as practicable notify its decision to the appellant, the Ophthalmic Qualifications Committee, the Agency, the Department and any other person to whom the Department has under paragraph (2) sent notice of the appeal.

#### Commencement Information

I7 Reg. 7 in operation at 9.11.2007, see [reg. 1](#)

### Ophthalmic list

8.—(1) The Agency shall from information obtained from the Boards keep a list called “the ophthalmic list” of those persons who, pursuant to the provisions of regulation 9 have undertaken to provide general ophthalmic services and who are not disqualified from inclusion by virtue of the provisions of paragraphs 5, 7, 9(5), 10(1) or 12(2) of Schedule 11 to the Order.

(2) The ophthalmic list shall be divided into two parts, of which the first part shall relate to ophthalmic medical practitioners and the second part to opticians.

(3) Each part shall contain —

- (a) the names of persons who are entitled to be included in it and in relation to each person—
  - (i) his professional registration number; and
  - (ii) the date that his name was included in the ophthalmic list;

- (b) except in the case of a mobile practice, the addresses of any places in the Board's area at which they have undertaken to provide general ophthalmic services, other than mobile services;
  - (c) particulars of the days on which and hours between which general ophthalmic services will normally be available at those addresses;
  - (d) the names of every other ophthalmic medical practitioner or optician who is regularly engaged as a deputy, director or employee in assisting in the provision of general ophthalmic services at any of those addresses or in the provision of mobile services;
  - (e) if the contractor has made arrangements with the Board to provide mobile services—
    - (i) that fact,
    - (ii) the address of any location visited regularly, with particulars of the months in which visits are planned to take place and the planned interval between such visits, and
    - (iii) if that contractor is a mobile practice, that fact and the addresses to which correspondence in connection with such provision may be sent.
- (4) The Agency shall send a copy of the ophthalmic list to the Department, each Board and the Local Optical Committee, and at intervals of not more than three months shall notify each of them of any alteration made in that list.
- (5) Copies of the ophthalmic list shall be made available for inspection at the offices of each Board, at the Agency and at such other places as appear to the Agency to be convenient for informing all persons interested.

**Commencement Information**

**18** Reg. 8 in operation at 9.11.2007, see [reg. 1](#)

**Application for inclusion in ophthalmic list**

- 9.—(1)** An ophthalmic medical practitioner or optician who wishes to be included in the ophthalmic list shall make an application to the Board in whose area he proposes to practise, on a form approved by the Department and available from the Board and the application shall include:
- (a) an undertaking to provide general ophthalmic services and to comply with the terms of service and if wishing to provide mobile services, a statement to that effect, with an undertaking to provide mobile services and to comply with the terms of service relevant to the provision of mobile services;
  - (b) the information specified in regulation 8(3); and
  - (c) a declaration that he is not suspended by direction of the Tribunal.
- (2) A contractor shall within fourteen days of any change or addition affecting the entries which the ophthalmic list is required to contain in relation to him notify the Board accordingly.

**Commencement Information**

**19** Reg. 9 in operation at 9.11.2007, see [reg. 1](#)

**Withdrawal from ophthalmic list**

- 10.—(1)** Subject to paragraphs (2) and (3), where a contractor gives notice in writing to the Board that he wishes to withdraw from the ophthalmic list, his name shall be removed from that list at the

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expiration of three months from and including the date of that notice or of such shorter period as the Board may agree.

(2) If representations are made to the Tribunal that the continued inclusion of a contractor in the ophthalmic list would be prejudicial to the efficiency of the general ophthalmic services, he shall not, except with the consent of the Department and subject to such conditions, if any, as the Department may impose, be entitled to have his name removed from the ophthalmic list pending the determination of the proceedings on those representations.

(3) The Board shall not agree to a contractor's withdrawal from the ophthalmic list unless and until it is satisfied that satisfactory arrangements have been made for the completion of any general ophthalmic services which he has undertaken to provide.

#### Commencement Information

**I10** Reg. 10 in operation at 9.11.2007, see [reg. 1](#)

#### Removal from ophthalmic list

**11.**—(1) Where a Board has determined that a contractor—

- (a) has died,
  - (b) in the case of a body corporate, has been dissolved or ceased trading, or
  - (c) has otherwise ceased from being a doctor, an ophthalmic medical practitioner or optician,
- it shall remove his name from the ophthalmic list and except in a case to which subparagraph (a) applies, notify him immediately that he has been removed from the list.

(2) Where a Board determines in accordance with the following provisions of this regulation that a contractor whose name has been included for the preceding six months in the ophthalmic list has not during that period provided general ophthalmic services for persons in the area it shall remove his name from the ophthalmic list.

(3) In calculating the period of six months referred to in paragraph (2), a Board shall disregard any period during which the contractor provided no general ophthalmic services by reason only that he was suspended by direction of the Tribunal.

(4) Before making a determination under paragraph (2) relating to a contractor a Board shall —

- (a) give him twenty eight days' notice of its intention to do so;
- (b) afford him an opportunity to make representations to the Board in writing or, if he so wishes, orally to a sub-committee which shall be appointed by the Board for the purpose and at least one third of the members of which shall be from a panel nominated by the Local Optical Committee;
- (c) consult the Local Optical Committee.

(5) Nothing in this regulation shall prejudice the right of a person to have his name included again in the ophthalmic list.

(6) No determination under this regulation shall be made in respect of any contractor who is called into —

- (a) whole-time service in the Armed Forces of the Crown in a national emergency as a volunteer or otherwise; or
- (b) compulsory whole-time service in those forces, including service resulting from any reserve liability or any equivalent service by a person liable for whole-time service in those forces,



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until six months after the completion of that service.

(7) Any document which is required or authorised to be given to a contractor under this regulation may be given by delivering it to him or by sending it by recorded delivery service to his usual or last known place of business as recorded in the ophthalmic list.

#### Commencement Information

**I11** Reg. 11 in operation at 9.11.2007, see [reg. 1](#)

### The Statement

**12.**—(1) The Department shall, after consultation with such organisations as appear to it to be representative of contractors providing general ophthalmic services, make provision in a determination (in these Regulations referred to as “the Statement”) as to —

- (a) the fees to be paid by the Agency for the testing of sight by ophthalmic medical practitioners and opticians; and
  - (b) the allowances to be paid in respect of continuing education and training by ophthalmic medical practitioners and opticians other than a body corporate.
- (2) Any such determination —
- (a) shall be published;
  - (b) may be amended by the Department in whole or in part, after consultation with those organisations referred to in paragraph (1).

#### Commencement Information

**I12** Reg. 12 in operation at 9.11.2007, see [reg. 1](#)

### Terms of Service

**13.** The arrangements for the provision of general ophthalmic services which under Article 62 of the Order, a Board is required to make, shall incorporate the terms of service and the Statement.

#### Commencement Information

**I13** Reg. 13 in operation at 9.11.2007, see [reg. 1](#)

### Payment for services

**14.**—(1) The Agency shall make payments in accordance with the Statement.

(2) Where in accordance with regulation 18(4) the Agency has paid to a patient in respect of a testing of sight an amount which exceeds the fee payable to the contractor, in accordance with the Statement, for that testing, it shall deduct the excess from remuneration otherwise payable to the contractor.

(3) Where the Agency considers that it has made a payment to a contractor owing to an error or in circumstances where it was not due, it shall, except to the extent that the Department on the application of the Agency directs otherwise, draw the overpayment to the attention of the contractor and —

- (a) where he admits the overpayment; or

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(b) where he does not admit the overpayment but the matter having been referred under regulation 5(1) of the Health and Personal Social Services (Disciplinary Procedures) Regulations (Northern Ireland) 1996(16) for investigation, the Agency, or the Department on appeal, decides that there has been an overpayment,

the amount overpaid shall be recoverable by a deduction from the contractor's remuneration or in some other manner.

(4) Recovery of an overpayment under the provisions of this regulation shall be without prejudice to the investigation of an alleged breach of the terms of service.

(5) A contractor who is unable to complete for a patient the general ophthalmic services which he has undertaken to provide shall inform the Agency accordingly in writing, and if the Agency is satisfied that the inability is due to a reasonable cause it shall make payments in accordance with the Statement to the contractor for such part of those services as he shall have provided.

#### Commencement Information

**I14** Reg. 14 in operation at 9.11.2007, see [reg. 1](#)

### Payments to an ophthalmic medical practitioner or optician suspended by direction of the Tribunal

**15.—**(1) The Agency shall make payments to any ophthalmic medical practitioner or optician who is suspended by direction of the Tribunal in accordance with the Department's determination for the time being in operation in relation to such payments.

(2) The Department shall make the determination in accordance with paragraphs (3) and (4) after consultation with the organisations referred to in regulation 12(1) and it shall be published with the Statement there referred to.

(3) Subject to paragraph (4), the Department's determination shall be such as to secure that, as far as reasonably practicable, the suspended ophthalmic medical practitioner or optician receives payments at a rate corresponding to his remuneration by virtue of regulation 12 during the 12 months ending with the direction for suspension by the Tribunal.

(4) The Department's determination may include provision that payments in accordance with the determination are not to exceed a specified amount in any specific period.

(5) Regulation 12(2) shall apply to determinations under this regulation as it applies to determinations under that regulation.

(6) Regulation 14(3) shall apply to payments made under this regulation as it applies to payments made under that regulation.

#### Commencement Information

**I15** Reg. 15 in operation at 9.11.2007, see [reg. 1](#)

### Sight Tests – eligibility

**16.—**(1) A person may have his sight tested under the general ophthalmic services if, at the time of the testing of sight, he is any of the following —

(a) a person who is under the age of 16 years;

- (b) a person who is under the age of 19 years and receiving qualifying full-time education;
  - (c) a person who is aged 60 years or more;
  - (d) a person whose resources are treated in accordance with paragraph (2) as being less than, or equal to, his requirements;
  - (e) a person who requires to wear a complex appliance;
  - (f) a person who is identified as being blind or partially sighted under section 1 of the Chronically Sick and Disabled Persons (Northern Ireland) Act 1978<sup>(17)</sup>;
  - (g) a person who has been diagnosed as suffering from diabetes or glaucoma or has been advised by an ophthalmologist that he is predisposed to the development of glaucoma;
  - (h) a person who is aged 40 or over and is the parent, brother, sister or child of a person who has been diagnosed as suffering from glaucoma.
- (2) A person's resources shall be treated as being less than or equal to his requirements if —
- (a) he is in receipt of income support;
  - (b) he is a member of the same family as a person who is in receipt of income support;
  - (c) his income resources as calculated in accordance with Part IV of, and Schedule 1 to, the Remission Regulations for the purposes of remission of charges under the Order are less than or equal to his requirements as so calculated or exceed his requirements as so calculated by fifty per cent or less of the amount of the charge specified in regulation 3(1)(b) (supply of drugs and appliances by chemists) of the Charges Regulations and his capital resources as so calculated do not exceed the capital limit;
  - (d) he is a member of the same family as a person described in sub-paragraph (c);
  - (e) he is in receipt of an income-based jobseeker's allowance;
  - (f) he is a member of the same family as a person described in sub-paragraph (e);
  - (g) he is a member of a family —
    - (i) one member of which is receiving —
      - (aa) working tax credit and child tax credit;
      - (bb) working tax credit which includes a disability element or a severe disability element; or
      - (cc) child tax credit, but is not eligible to receive working tax credit; and
    - (ii) where the relevant income of the person or persons to whom an award of a tax credit is made under section 14 of the Tax Credits Act 2002 is determined at the time of the award not to exceed [<sup>F2</sup>£15,276;]
  - (h) he is a person in respect of whom there is a current notice of entitlement;
  - (i) he is in receipt of pension credit guarantee credit; or
  - (j) he is a member of the same family as a person described in sub-paragraph (i).
- (3) In paragraph (1)(g) "ophthalmologist" means a doctor whose name is included in the register of specialists kept by the General Medical Council under Article 13(1) of the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003<sup>(18)</sup> and in respect of whom that register indicates his speciality to be ophthalmology.
- (4) In paragraph (2) —

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(17) 1978 c.53

(18) S.I. 2003/1250

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- (a) in sub-paragraphs (b), (d) and (j) “family” has the meaning assigned to it by section 133(1) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992<sup>(19)</sup>, as it applies to income support;
- (b) in sub-paragraph (f), “family” has the meaning assigned to it by Article 2(2) of the Jobseekers (Northern Ireland) Order 1995<sup>(20)</sup>; and
- (c) in sub-paragraph (g), “family” has the meaning assigned to it by regulation 2(2) of the Tax Credits (Definition and Calculation of Income) Regulations 2002<sup>(21)</sup>.

**F2** Sum in Reg. 16(2)(g)(ii) substituted (1.4.2009) by The General Ophthalmic Services (Amendment No. 2) Regulations (Northern Ireland) 2009 (S.R. 2009/152), regs. 1(1), 3

#### Commencement Information

**I16** Reg. 16 in operation at 9.11.2007, see [reg. 1](#)

### Sight tests – applications

**17.**—(1) An eligible person who wishes to have his sight tested under general ophthalmic services may make an application to any contractor for his sight to be tested.

(2) The application shall be made on a form provided for that purpose to contractors by the Agency and shall contain a written declaration signed by the applicant to the effect that he is an eligible person.

(3) In addition, a person who is an eligible person—

- (a) but only by virtue of regulation 16(1)(d) and (2)(c) or (d) shall show to the contractor a current notice of entitlement;
- (b) but only by virtue of regulation 16(1)(e), shall show to the contractor the prescription for a complex appliance issued to him on the occasion when his sight was last tested;
- (c) but only by virtue of paragraph 16(1)(g), shall on a form provided for that purpose to contractors by the Agency provide the contractor with the name and address of his doctor and give his consent to the Agency seeking confirmation of his diabetes or glaucoma from his doctor.

(4) A contractor to whom an application for a testing of sight is made shall, before making any test of the person’s sight—

- (a) subject to paragraph (5) —
  - (i) satisfy himself that the person is an eligible person by asking for satisfactory evidence of entitlement, unless the contractor, in cases other than where the patient is a person specified in regulation 16(1)(d), already has satisfactory evidence of it available to him; and
  - (ii) where the patient has been asked for but not produced satisfactory evidence that he is an eligible person, then the contractor shall record the fact on the patient’s sight test form;
- (b) ensure that particulars of the patient and the approximate date of the last testing, if any, of his sight are inserted in a sight test form by the patient or on his behalf; and
- (c) satisfy himself that the testing of sight is necessary.

<sup>(19)</sup> 1992 c. 7

<sup>(20)</sup> S.I. 1995/2705 (N.I. 15)

<sup>(21)</sup> S.I. 2002/2006

(5) Where an eligible person to whom paragraph (3)(b) applies is unable to meet its requirements, the contractor may, instead of satisfying himself that those requirements are met, satisfy himself that the person is an eligible person by referring to his own records or by measuring the power of the lenses of the person's existing optical appliance by means of a focimeter or other suitable means.

(6) Where the contractor has provided the sight test at the place where the patient normally resides, he shall record on the sight test form the reason given by the patient, or on his behalf, for not being able to leave home unaccompanied.

(7) The contractor may appoint a member of his staff to carry out the requirements placed on him by paragraph (4)(a)(i) and (ii) on his behalf, provided that he ensures that person is given instruction by him to enable him to fulfil the requirements on his behalf.

**Commencement Information**

**I17** Reg. 17 in operation at 9.11.2007, see [reg. 1](#)

**Sight test treated as a test under general ophthalmic services**

**18.—(1)** A person whose sight is tested by a contractor but who was not an eligible person immediately before the testing and—

- (a) who is shown during the testing to fall within the description specified in sub-paragraph (e) of regulation 16(1); or
- (b) who is shown, in accordance with paragraph (3), within 3 months after the testing to fall within either of the descriptions specified in sub-paragraphs (c) or (d) of regulation 16(2), shall be taken for the purposes of the testing to have so fallen immediately before his sight was tested.

(2) Where paragraph (1) applies the testing shall be treated as a testing of sight under the Order for the purposes of regulation 8(1)(a) of the Health and Personal Social Services (Optical Charges and Payments) Regulations (Northern Ireland) 1997(22) as well as for the purposes specified in Article 62(8) of the Order.

(3) For the purposes of paragraph (1)(b) a person is shown to fall within a description specified in sub-paragraph (c) or (d) of regulation 16(2) if he presents to the Agency a notice of entitlement which is effective for a period which includes the date of the testing of sight or a period beginning no later than 14 days after the date of the testing of sight.

(4) Where a testing of a person's sight is treated by virtue of paragraphs (1)(b) and (3) as a testing of sight under the Order the Agency shall, on being presented with a receipt for, or other evidence of, any fee paid for the testing, and on being satisfied as to its amount, pay to that person an amount equal to that fee.

**Commencement Information**

**I18** Reg. 18 in operation at 9.11.2007, see [reg. 1](#)

**School children**

**19.—(1)** Without prejudice to their right to obtain general ophthalmic services under and in accordance with the foregoing regulations, the provisions of this regulation shall have effect in

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relation to persons for whom medical inspection or treatment is provided under or by virtue of the provisions of Article 9 of the Order.

(2) In this regulation the expression “appointed ophthalmic medical practitioner” means an ophthalmic medical practitioner whose name is on the ophthalmic list and who has been appointed by a Board to undertake sight testing for school children as may be required by this regulation. The expression “medical officer” means a medical practitioner, whose name is not included in the ophthalmic list, who has been appointed by a Board to undertake the medical inspection or medical supervision of school children under Article 9 of the Order.

(3) Where on examination of the eyes of a pupil, a medical officer is of the opinion that the pupil needs to have his sight tested, he shall notify his opinion to the parent, guardian or other person having charge of the pupil. The notification shall indicate that the parent, guardian or other person in charge of the pupil may arrange to have the sight test carried out —

- (a) by any ophthalmic medical practitioner or any optician on the ophthalmic list, or
- (b) where the services of an appointed ophthalmic medical practitioner are available, by such appointed ophthalmic medical practitioner.

#### Commencement Information

**I19** Reg. 19 in operation at 9.11.2007, see [reg. 1](#)

#### Cases of disability

**20.**—(1) Subject to paragraph (2), an application for general ophthalmic services required by these regulations may be made and a signature required by these regulations may be given —

- (a) on behalf of any person under 16 years of age by either parent, or in the absence of both parents, the guardian or other adult person who has the care of the child;
- (b) on behalf of any other person who is incapable of making the application, or giving the signature, by a relative or any other adult who has the care of that person; or
- (c) on behalf of any person under 18 years of age —
  - (i) in the care of an authority to whose care he has been committed under the provisions of the Children (Northern Ireland) Order 1995(**23**) by a person duly authorised by that authority;
  - (ii) in the care of a voluntary organisation, by that organisation or a person duly authorised by them.

(2) A signature on an application may not be given by the contractor or any person employed by a contractor, or assists a contractor in providing general ophthalmic services.

#### Commencement Information

**I20** Reg. 20 in operation at 9.11.2007, see [reg. 1](#)

#### Publication of particulars

**21.** The Agency shall publish in such manner as appears to it best calculated to inform all persons interested of the arrangements made by Boards for the provision of general ophthalmic services and shall make available for inspection at its office and at such other places as appear to it to be

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convenient for informing any person interested, copies of these regulations, the ophthalmic list, the terms of service and the Statement, but the Agency need not make available copies of all those documents at every place at which it makes available copies of any of them.

**Commencement Information**

**I21** Reg. 21 in operation at 9.11.2007, see [reg. 1](#)

**Service of documents**

**22.** Subject to regulations 7(3) and 11(7), any document which is required or authorised under these regulations (including the terms of service) to be given to a contractor may be given by delivering it to him or by sending it addressed to him at any address notified by him to the Board for inclusion in the ophthalmic list as a place at which he has undertaken to provide general ophthalmic services, or, in the case of a mobile practice, the address notified to the Board and the Agency as the address to which correspondence may be sent.

**Commencement Information**

**I22** Reg. 22 in operation at 9.11.2007, see [reg. 1](#)

**Revocations and transitional provisions**

**23.—(1)** Subject to paragraph (2), the regulations specified in column 1 of Schedule 3 (“the revoked regulations”) are revoked to the extent specified in column 3 of that Schedule.

(2) In respect of any general ophthalmic services provided under the revoked Regulations for which arrangements were made before 9th November 2007, payments shall be made as though the revoked Regulations and determinations made under them and in operation on 8th November 2007 continue to be in operation.

**Commencement Information**

**I23** Reg. 23 in operation at 9.11.2007, see [reg. 1](#)

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 15th October 2007.



*Christine Jendoubi*  
A senior officer of the Department of Health,  
Social Services and Public Safety

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Sealed with the Official Seal of the Department of Finance and Personnel on 15th October 2007.



*Jack Layberry*  
A senior officer of the Department of Finance  
and Personnel



## SCHEDULE 1

Regulation 2

### TERMS OF SERVICE

#### Interpretation

<sup>F3</sup>1. ....

**F3** Sch. 1 para. 1 omitted (1.4.2009) by virtue of [The General Ophthalmic Services \(Amendment No. 2\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/152\)](#), regs. 1(1), **4(a)**

#### Incorporation of provisions

2. Any provisions of the following affecting the rights and obligations of contractors shall be deemed to form part of the terms of service:

- (a) [<sup>F4</sup>these Regulations] ;
- (b) so much of the Health and Personal Social Services (Disciplinary Procedures) Regulations (Northern Ireland) 1996(**24**) as relates to—
  - (i) the investigation of questions arising between contractors and their patients, other investigations to be made by the ophthalmic discipline committee, and the action which may be taken by the Board as a result of such investigations, including the withholding of remuneration from a contractor where there has been a breach of the terms of service;
  - (ii) appeals to the Department from decisions of the Board;
  - (iii) the investigation of excessive issuing of optical vouchers following a sight test;
- (c) regulation 9 of the Health and Personal Social Services (Optical Charges and Payments) Regulations (Northern Ireland) 1997;
- (d) the Statement.

**F4** Words in Sch. 1 para. 2(a) substituted (1.4.2009) by [The General Ophthalmic Services \(Amendment No. 2\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/152\)](#), regs. 1(1), **4(b)**

#### Commencement Information

**I24** Sch. 1 para. 2 in operation at 9.11.2007, see [reg. 1](#)

#### Premises at which general ophthalmic services are to be provided

3. Subject to paragraph 4, a contractor shall provide general ophthalmic services only at an address which is included in relation to him in the ophthalmic list.

#### Commencement Information

**I25** Sch. 1 para. 3 in operation at 9.11.2007, see [reg. 1](#)

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### Provision of mobile services

4.—(1) A contractor, who has made arrangements with the Board to provide mobile services, may provide them only in accordance with sub-paragraph (2), after giving notice in accordance with sub-paragraph (3).

(2) The contractor may only provide mobile services if—

- (a) the patient has requested the contractor to provide those services to him, or, where the patient is incapable of making such a request, another person has made such a request on the patient's behalf; and
- (b) subject to sub-paragraphs (5), (6), (7) and (8), he has notified the Board in accordance with sub-paragraph (3) and, if applicable, (4) and the Board has not informed the contractor that it is not content with those changes.

(3) The contractor shall notify the Board of his intention to provide mobile services at a location at least 48 hours (except that no part of a Saturday, Sunday or public holiday shall count towards that period) in advance of the date on which the contractor intends to provide the mobile services in the Board's area, identifying the persons to whom the services are to be provided and specifying the date and approximate time when he will provide them.

(4) If the contractor wishes to change any of the matters of which he has notified the Board under sub-paragraph (3), he shall so notify the Board at least 24 hours (except that no part of a Saturday, Sunday or public holiday shall count towards that period) before—

- (a) if he wishes to provide mobile services to further or different persons, that provision;
- (b) if he wishes to change the date or time of the provision of those services, both—
  - (i) the previously notified date of that provision, and
  - (ii) if the notification is to change the date, the date so notified.

(5) If the contractor is unable to attend the place at which he has notified the Board that he would be attending, he may instead, on that day and at that approximate time, provide mobile services at another location ("the substitution"), provided that the Board notifies him that it agrees to the substitution.

(6) In a case to which paragraph (5) applies the contractor may attend and provide mobile services at the originally notified place at such time as the Board shall agree.

(7) In a case where circumstances have arisen whereby it was not possible to notify in accordance with sub-paragraph (4)(a), the contractor may provide mobile services to up to 3 other persons at the previously notified time and place.

(8) The contractor shall be permitted to provide emergency mobile services without due notification to the Board in accordance with sub-paragraph (3), provided that the contractor notifies the relevant Board of the location at which the emergency mobile services were provided, the identity of the person to whom those services were provided, the date and approximate time the services were provided and the reasons for the provision of the services, as soon as reasonably possible.

[<sup>F5</sup>(9) In sub-paragraph (8) "emergency mobile services" means general ophthalmic services provided at a location, other than the contractor's practice premises, where the contractor has made reasonable arrangements to secure that a patient requiring prompt care will receive such care as soon as appropriately possible.]

[<sup>F5</sup>(10) For the purposes of sub-paragraph (9) a patient requires "prompt care" if in the clinical opinion of the contractor—

- (a) the patient's sight is likely to deteriorate without such care;
- (b) the patient is in significant pain by reason of his eye condition; or

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- (c) the patient may be at serious risk of sustaining a personal injury as a direct result of having an uncorrected refractive error;

and “prompt care” does not necessitate a repair or replacement of an optical appliance unless head (c) applies.]

**F5** Sch. 1 para. 4(9)(10) inserted (1.4.2009) by [The General Ophthalmic Services \(Amendment No. 2\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/152\)](#), regs. 1(1), **4(c)**

#### **Commencement Information**

**I26** Sch. 1 para. 4 in operation at 9.11.2007, see [reg. 1](#)

### **Premises and equipment**

5.—(1) Subject to sub-paragraph (2) to (5) and paragraph 9(3), a contractor shall provide as may be requisite, proper and sufficient consulting and waiting room accommodation and suitable equipment for the provision of the general ophthalmic services which he has undertaken to provide.

(2) A contractor, who has made arrangements with the Board to provide mobile services, shall provide suitable equipment for the provision of such services.

(3) A contractor who—

- (a) does not provide or no longer provides accommodation and equipment, as required under sub-paragraph (1), or equipment as required under sub-paragraph (2); and
- (b) is not employed, in relation to the general ophthalmic services which he has undertaken to provide in the area of that Board, by another contractor,

may, instead of providing the accommodation and equipment, as required under sub-paragraph (1), or equipment as required by sub-paragraph (2), enter into arrangements of the kind described in sub-paragraph (4), provided the conditions set out in sub-paragraph (5) are met.

(4) The arrangements referred to in sub-paragraph (3) are legally enforceable arrangements under which—

- (a) requisite, proper and sufficient consulting and waiting room accommodation and suitable equipment; or
  - (b) in the case of the provision of mobile services, suitable equipment;
- are available to him for the provision of the general ophthalmic services which he has undertaken to provide, which permit inspection as required under paragraph 5(6) or (7).

(5) The conditions referred to in sub-paragraph (3) are that the contractor has satisfied the Board that—

- (a) the arrangements are legally enforceable and permit inspection as required under paragraph 5(6) or (7);
- (b) the accommodation and equipment or, in the case of the provision of mobile services, equipment, provided under the arrangements are adequate and suitable.

(6) Subject to sub-paragraph (7) and (8) and paragraph 9(3), a contractor, on receipt of a written request from the Department, the Board, the Agency or the Committee to do so, shall admit at all reasonable times for the purposes of inspecting his accommodation or equipment an authorised officer of the Department, the Board or the Agency, or authorised member of the Committee.

(7) A contractor, who has made arrangements with the Board to provide mobile services on receipt of a written request from the Department, the Board, the Agency or the Committee, shall

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arrange for an authorised officer of the Department, the Board, the Agency, or of the Committee, to be allowed to inspect at a reasonable time the facilities and equipment that he uses.

(8) In addition to the right to inspect under sub-paragraph (7), a contractor, who has made arrangements with the Board to provide mobile services, shall allow an authorised officer of the Department, the Board or the Agency, or authorised member of the Committee to inspect the facilities and equipment that he uses when providing those services at a location of which he notified the Board under paragraph 4(3).

#### Commencement Information

**I27** Sch. 1 para. 5 in operation at 9.11.2007, see [reg. 1](#)

#### Notices

6.—(1) Subject to sub-paragraph (2), a contractor shall secure that at each place at which he provides general ophthalmic services there is prominently displayed a notice and leaflet supplied or approved by the Agency, indicating the services available under general ophthalmic services and indicating to which descriptions of his patients a payment may be made under the Health and Personal Social Services (Optical Charges and Payments) Regulations (Northern Ireland) 1997(25).

(2) Where mobile services are being provided, a notice shall be displayed only in so far as it is reasonably practicable to do so.

#### Commencement Information

**I28** Sch. 1 para. 6 in operation at 9.11.2007, see [reg. 1](#)

#### Records

7.—(1) A contractor shall keep a full, accurate and contemporaneous record in respect of each patient to whom he provides general ophthalmic services, giving the appropriate and necessary details of the sight testing.

(2) Records, for the purpose of subparagraph (1), shall also include any details in regard to the dispensing, supply, repair or replacement of an optical appliance or prescription which has been given to the patient in consequence of a testing of sight.

(3) Subject to paragraph 9(3), a contractor shall retain all such records for a period of seven years from and including the date of the last recorded sight test, and shall during that period—

- (a) produce them on request to an optician in the employment of the Board for inspection; or
- (b) produce them to the Department, the Board, the Agency or the Committee within 14 days of being required to do so by the Department, the Board, the Agency or the Committee.

#### Commencement Information

**I29** Sch. 1 para. 7 in operation at 9.11.2007, see [reg. 1](#)

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## Deputies

8.—(1) A contractor may arrange for sight to be tested on his behalf by an ophthalmic medical practitioner or optician, but no such arrangements shall be made unless the name of that ophthalmic medical practitioner or optician is included in the ophthalmic list.

(2) Any contractor who makes an arrangement for the regular provision of services by a deputy in terms of paragraph (1) shall notify the Board of the arrangement.

(3) A contractor shall be responsible for all acts and omissions of any person acting as his deputy and of any employee of that person; and a deputy who is himself a contractor shall be jointly responsible to the same extent as the contractor for whom he is deputising.

### Commencement Information

**I30** Sch. 1 para. 8 in operation at 9.11.2007, see [reg. 1](#)

## Employees

9.—(1) A contractor who employs a person to test sight shall only employ—

- (a) an ophthalmic medical practitioner or optician, whose name is included on the ophthalmic list; or
- (b) a person, who is authorised to test sight by rules made under section 24(3) of the Opticians Act 1989 (testing of sight)(**26**), acting under the continuous personal supervision of an ophthalmic medical practitioner or optician, whose name is included on the ophthalmic list.

(2) A contractor who makes an arrangement for the regular provision of services by an employee in terms of paragraph (1) shall notify the Board of the arrangement.

(3) A contractor shall be responsible for all acts and omissions of any employee; and an employee who is himself a contractor shall be jointly responsible but only, in the case of paragraphs 5(1) and (6) and 7(2), to the extent that he has not taken all reasonable steps to secure that the requirements of those provisions are met.

(4) In this paragraph “employee” includes, in the case of a body corporate, a director and “employ” is to be interpreted accordingly.

### Commencement Information

**I31** Sch. 1 para. 9 in operation at 9.11.2007, see [reg. 1](#)

## Complaints

10.—(1) Subject to sub-paragraphs (2) and (3), a contractor shall establish, and operate in accordance with this paragraph, a procedure (in this paragraph and in paragraph 11 referred to as a “complaints procedure”) to deal with any complaints made by or on behalf of his patients and former patients.

(2) The complaints procedure to be established by a contractor may be such that it also deals with complaints made in relation to one or more other contractors.

(3) The complaints procedure to be established by a contractor who provides general ophthalmic services from more than one set of premises may be such that it relates to all those premises together.

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(26) 1989 c.44

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(4) A complaints procedure shall apply to complaints made in relation to any matter reasonably connected with the contractor's provision of general ophthalmic services and within the responsibility or control of—

- (a) the contractor;
  - (b) where the contractor is a body corporate, any of its directors or former directors;
  - (c) a former partner of the contractor;
  - (d) any other person (being an optician, an ophthalmic medical practitioner or a person authorised to test sight by rules made under section 24(3) of the Opticians Act 1989) who is either employed by the contractor or engaged as his deputy;
  - (e) any employee of the contractor other than one falling within head (d),
- and in this paragraph and paragraph 11, references to complaints are to complaints falling within this sub-paragraph.

(5) A complaint may be made on behalf of a patient or former patient with his consent, or—

- (a) where the patient is a child under the age of 16 years—
  - (i) by either parent, or in the absence of both parents, the guardian or the other adult person who has care of the child, or
  - (ii) where the child is in the care of an authority to whose care he has been committed under the provisions of the Children (Northern Ireland) Order 1995, by a person duly authorised by that authority, or;
  - (iii) where the child is in the care of a voluntary organisation, by that voluntary organisation or a person duly authorised by it, or
  - (iv) where the child is in a juvenile justice centre, by the Manager of that juvenile justice centre;
- (b) where the patient is incapable of making a complaint, by a relative or other adult person who has an interest in his welfare.

(6) Where a patient has died, a complaint may be made by a relative or other adult person who had an interest in his welfare or, where the patient was as described in head (a)(ii), (iii), or (iv), of sub-paragraph (5), by the authority, voluntary organisation, or the Manager of the juvenile justice centre.

(7) A complaints procedure shall comply with the following requirements—

- (a) the contractor must specify a person (who need not be connected with the contractor and who, in the case of an individual, may be specified by his job title) to be responsible for receiving and investigating all complaints;
- (b) all complaints must be—
  - (i) recorded in writing,
  - (ii) acknowledged, either orally or in writing, within the period of three days (excluding Saturdays, Sundays and public holidays) beginning with and including the day on which the complaint was received by the person specified under head (a) or where that is not possible, as soon as reasonably practicable; and
  - (iii) properly investigated;
- (c) within the period of 10 days (excluding Saturdays, Sundays and public holidays) beginning with and including the day on which the complaint was received by the person specified under head (a), or where that is not possible, as soon as reasonably practicable, the complainant must be given a written summary of the investigation and its conclusions;
- (d) where the investigation of the complaint requires consideration of the patient's sight testing records, the person specified under head (a) must inform the patient or person acting on

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his behalf if the investigation will involve disclosure of information contained in those records to a person other than the contractor, or a director, partner, deputy or employee of the contractor; and

- (e) the contractor must keep a record of all complaints and copies of all correspondence relating to complaints for a period of seven years from and including the date of the last correspondence relating to the complaint, but such records must be kept separate from all patients' sight testing records.

(8) At each of the premises at which the contractor provides general ophthalmic services he must provide information about the complaints procedure which he operates and give the name (or title) and address of the person specified under sub-paragraph (7)(a).

#### Commencement Information

**I32** Sch. 1 para. 10 in operation at 9.11.2007, see [reg. 1](#)

### Co-operation with investigations

11.—(1) A contractor shall co-operate with any investigation of a complaint by the Board in accordance with the procedures which it operates in accordance with directions given under Article 17(1) of the Order, whether the investigation follows one under the contractor's complaints procedure or not.

(2) The co-operation required by sub-paragraph (1) includes—

- (a) answering questions reasonably put to the contractor by the Board;
- (b) providing any information relating to the complaint reasonably required by the Board; and
- (c) attending any meeting to consider the complaint (if held at a reasonably accessible place and at a reasonable hour, and due notice has been given), if the contractor's presence at the meeting is reasonably required by the Board.

#### Commencement Information

**I33** Sch. 1 para. 11 in operation at 9.11.2007, see [reg. 1](#)

### Complaints against ophthalmic medical practitioners

12.—(1) Where a contractor who, being an ophthalmic medical practitioner also performs primary medical services under a GMS contract for any person to whom he provides general ophthalmic services, the complaints procedure established and operated in accordance with the terms of that GMS contract shall apply in relation to any matter reasonably connected with his provision of general ophthalmic services as it applies as respects the provision of services under the GMS contract.

(2) Accordingly, any requirement as to co-operation with investigations of complaints by other bodies imposed on a GMS contractor under the term of his contract which gives effect to paragraph 89 of Schedule 5 to the Health and Personal Social Services (General Medical Services Contracts) Regulations (Northern Ireland) 2004(27) also applies in relation to complaints about such matters.

(3) In this paragraph "GMS contract" means a general medical services contract under Article 57 of the Order and "general medical services contractor" shall be construed accordingly.

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(27) [S.R. 2004 No. 140](#)

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(4) For as long as there are in existence contracts entered into under Article 13 of the General Medical Services Transitional and Consequential Provisions (No.1) (Northern Ireland) Order 2004(28) (“default contracts”), any reference in this paragraph to a GMS contract shall be read as including a reference to a contract entered into under that Article and any reference to a term of a GMS contract shall be read as including a reference to the equivalent term of the default contract.

#### Commencement Information

**I34** Sch. 1 para. 12 in operation at 9.11.2007, see [reg. 1](#)

### Payments

13.—(1) Any claim by a contractor for fees in respect of the provision of general ophthalmic services shall be made by completing or securing the completion of a sight test form and sending it to the Agency within six months from and including the date of completion of the provision of the services.

(2) Any such claim shall be signed—

- (a) if the contractor is a body corporate, by any of its directors who is a contractor, who takes part in the provision of general ophthalmic services at the address at which the relevant service was provided or by any of its employees who is such a contractor;
- (b) if the contractor is not a body corporate—
  - (i) if the Service was provided on his behalf by a deputy or employee who is also a contractor, by the deputy or employee who shall give the name of the contractor on whose behalf the service was provided;
  - (ii) in other cases by the contractor himself.

(3) A signatory shall sign any such claim in ink with his initials or forename and with his surname in his own handwriting and not by means of a stamp.

(4) Except as may be provided in the regulations, in [<sup>F6</sup>these Regulations] or in sub-paragraph (5), a contractor shall not demand or accept from any patient or from other persons the payment of any fee or other remuneration in respect of the provision of general ophthalmic services.

(5) A contractor shall be entitled to demand and recover from a patient or person having charge of a patient, a sum in respect of loss of remunerative time resulting from that patient’s failure to keep an appointment.

(6) A contractor shall not demand or accept from the Agency the payment of any fee or remuneration in respect of any item of service—

- (a) which has not been provided under general ophthalmic services; or
- (b) for which another claim has already been submitted to the Agency.

**F6** Words in [Sch. 1 para. 13\(4\)](#) substituted (1.4.2009) by [The General Ophthalmic Services \(Amendment No. 2\) Regulations \(Northern Ireland\) 2009 \(S.R. 2009/152\)](#), regs. 1(1), [4\(d\)](#)

#### Commencement Information

**I35** Sch. 1 para. 13 in operation at 9.11.2007, see [reg. 1](#)



**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to General Ophthalmic Services Regulations (Northern Ireland) 2007. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## Testing of Sight

14.—(1) A contractor shall, having accepted pursuant to the regulations an application for the testing of sight, test the sight of a patient to determine whether the patient needs to wear or use an optical appliance, and on so doing shall fulfil any duty imposed on him by, or in Regulations made under, section 26 of the Opticians Act 1989.

(2) Where a contractor or an ophthalmic medical practitioner or optician assisting him in the provision of general ophthalmic services is of the opinion that a patient whose sight he has tested pursuant to sub-paragraph (1)—

- (a) shows on examination signs of injury, disease or abnormality in the eye or elsewhere which may require medical treatment; or
- (b) is not likely to attain a satisfactory standard of vision notwithstanding the application of corrective lenses;

he shall, if appropriate, and with the consent of the patient,

- (i) refer the patient to an ophthalmic hospital,
- (ii) inform the patient's doctor that he has done so, and
- (iii) give the patient a written statement that he has done so, with details of the referral.

(3) Where a contractor tests the sight of a patient diagnosed as suffering from diabetes or glaucoma he shall inform the patient's doctor of the results of the test.

(4) Where a contractor issues to a patient a prescription for glasses, he shall, immediately thereafter, require the patient to acknowledge its receipt on a sight test form.

(5) A prescription for glasses issued following a testing of sight under general ophthalmic services shall be completed by the method recommended in Appendix A to British Standard 3521: 1962 (Glossary of Terms relating to Ophthalmic Lenses and Spectacle Frames) published by the British Standards Institution, as effective on the date of its publication, and shall comply with any requirements as to its form specified in the Statement for the purposes of payment in respect of the sight test.

### Commencement Information

**I36** Sch. 1 para. 14 in operation at 9.11.2007, see [reg. 1](#)

## Use of disqualified name

15.—(1) Subject to sub-paragraph (2), a contractor shall not use in any manner whatsoever the name or part of the name, either alone or in combination with any other words or letters of, or used by, any person so long as that person is disqualified by the Tribunal from inclusion in any ophthalmic list by virtue of paragraphs 5, 7, 9(5), 10(1) or 12(2) of Schedule 11 to the Order.

(2) Nothing in sub-paragraph (1) shall prevent a contractor other than a body corporate from using his own name, or being a body corporate from using the name by which it is enrolled in the register maintained pursuant to the provisions of the Opticians Act 1989.

### Commencement Information

**I37** Sch. 1 para. 15 in operation at 9.11.2007, see [reg. 1](#)

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### Telephone services

16.—(1) A contractor shall not be a party to any contract or other arrangement under which the number for telephone services to be used by—

- (a) patients to contact the contractor for any purpose related to the provision of general ophthalmic services; or
- (b) any other person to contact the contractor in relation to services provided as part of the health services,

starts with the digits 087, 090 or 091 or consists of a personal number, unless the service is provided free to the caller.

(2) In this paragraph, “personal number” means a telephone number which starts with the number 070 followed by a further 8 digits.

.....  
**Commencement Information**

**I38** Sch. 1 para. 16 in operation at 9.11.2007, see [reg. 1](#)

## SCHEDULE 2

Regulation 3

### CONSTITUTION OF OPHTHALMIC COMMITTEE

1. The Ophthalmic Committee appointed by the Agency, after consultation with the Boards, such organisations as appear to it to represent ophthalmic medical practitioners and ophthalmic opticians and such other bodies as appear to it to be concerned, shall consist of a chairman and such number of other members as the Agency thinks fit.

.....  
**Commencement Information**

**I39** Sch. 2 para. 1 in operation at 9.11.2007, see [reg. 1](#)

2. The Chairman shall be an optician appointed by the Department.

.....  
**Commencement Information**

**I40** Sch. 2 para. 2 in operation at 9.11.2007, see [reg. 1](#)

3. The term of office of members of the Committee shall be determined by the Agency.

.....  
**Commencement Information**

**I41** Sch. 2 para. 3 in operation at 9.11.2007, see [reg. 1](#)

4. Where the place of a member becomes vacant before the expiration of his term of office whether by death, resignation or otherwise, the vacancy shall be filled by the Agency, and any person so appointed shall hold office for the remainder of the term of office of the former member.

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**Commencement Information**

**I42** Sch. 2 para. 4 in operation at 9.11.2007, see [reg. 1](#)

5. A member of the Committee may resign his membership by giving to the Agency notice in writing signed by him.

**Commencement Information**

**I43** Sch. 2 para. 5 in operation at 9.11.2007, see [reg. 1](#)

6. Where any member of the Committee—
- (a) is absent from the meetings of the Committee for more than six months consecutively (except for a reason approved by the Agency); or
  - (b) has become bankrupt or has made a composition with his creditors; or
  - (c) is convicted of an indictable offence;
- the Agency shall forthwith by resolution, declare the office to be vacant and shall notify that fact in such manner as it thinks fit and thereupon the office shall become vacant.

**Commencement Information**

**I44** Sch. 2 para. 6 in operation at 9.11.2007, see [reg. 1](#)

7. Where a person who provides any ophthalmic or other professional services under the Order is a member of the Committee he may vote upon any matter which touches the interests of members of his profession (himself included) but shall not vote upon any matter touching only his individual professional interests.

**Commencement Information**

**I45** Sch. 2 para. 7 in operation at 9.11.2007, see [reg. 1](#)

8. The proceedings of the Committee shall not be invalidated by any vacancy in the membership of the Committee or by any defect in the appointment of any of its members.

**Commencement Information**

**I46** Sch. 2 para. 8 in operation at 9.11.2007, see [reg. 1](#)

9. A member of the Committee who is appointed on the nomination of a Board, shall if he is a member of that Board, cease to be a member of the Committee if he ceases to be a member of that Board.

**Commencement Information**

**I47** Sch. 2 para. 9 in operation at 9.11.2007, see [reg. 1](#)

**Changes to legislation:** There are outstanding changes not yet made by the legislation.gov.uk editorial team to General Ophthalmic Services Regulations (Northern Ireland) 2007. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

## SCHEDULE 3

Regulation 23(1)

## REGULATIONS REVOKED

**Commencement Information**

**I48** Sch. 3 in operation at 9.11.2007, see [reg. 1](#)

<i>Column 1</i>	<i>Column 2</i>	<i>Column 3</i>
<i>Regulations Revoked</i>	<i>References</i>	<i>Extent of Revocation</i>
General Ophthalmic Services Regulations (Northern Ireland) 1986	<a href="#">S.R. 1986 No. 163</a>	The whole regulations
General Ophthalmic Services (Amendment) Regulations (Northern Ireland) 1988	<a href="#">S.R. 1988 No. 110</a>	The whole regulations
General Ophthalmic Services (Amendment) Regulations (Northern Ireland) 1989	<a href="#">S.R. 1989 No. 113</a>	The whole regulations
Central Service Agency Committees (Amendment) Regulations (Northern Ireland) 1989	<a href="#">S.R. 1989 No. 198</a>	Regulation 5
General Ophthalmic Services (Amendment No. 2) Regulations (Northern Ireland) 1989	<a href="#">S.R. 1989 No. 269</a>	The whole regulations
General Ophthalmic Services (Amendment) Regulations (Northern Ireland) 1990	<a href="#">S.R. 1990 No. 191</a>	The whole regulations
Optical Charges and Payments (Miscellaneous Amendments) Regulations (Northern Ireland) 1991	<a href="#">S.R. 1991 No. 115</a>	Regulation 6
General Ophthalmic Services (Amendment) Regulations (Northern Ireland) 1995	<a href="#">S.R. 1995 No. 115</a>	The whole regulations
General Ophthalmic Services (Amendment) Regulations (Northern Ireland) 1996	<a href="#">S.R. 1996 No. 135</a>	The whole regulations
General Ophthalmic Services (Amendment No. 2) Regulations (Northern Ireland) 1996	<a href="#">S.R. 1996 No. 416</a>	The whole regulations

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<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Regulations Revoked</b>	<b>References</b>	<b>Extent of Revocation</b>
The Health Services (Pilot Schemes: Miscellaneous Provisions and Consequential Amendments) Regulations (Northern Ireland) 1999	<a href="#">S.R. 1999 No. 100</a>	Regulation 8
General Ophthalmic Services (Amendment) Regulations (Northern Ireland) 1999	<a href="#">S.R. 1999 No. 112</a>	The whole regulations
Optical Charges and Payments and General Ophthalmic Services (Amendment) Regulations (Northern Ireland) 1999	<a href="#">S.R. 1999 No. 394</a>	Regulation 3
Optical Charges and Payments and General Ophthalmic Services (Amendment) Regulations (Northern Ireland) 2000	<a href="#">S.R. 2000 No. 51</a>	Regulation 8
General Ophthalmic Services (Amendment) Regulations (Northern Ireland) 2001	<a href="#">S.R. 2001 No. 339</a>	The whole regulations
Optical Charges and Payments and General Ophthalmic Services (Amendment) Regulations (Northern Ireland) 2001	<a href="#">S.R. 2001 No. 370</a>	Regulations 7 to 11
Optical Charges and Payments and General Ophthalmic Services (Amendment) Regulations (Northern Ireland) 2002	<a href="#">S.R. 2002 No. 85</a>	Regulation 6
General Ophthalmic Services (Amendment) Regulations (Northern Ireland) 2003	<a href="#">S.R. 2003 No. 74</a>	The whole regulations
Optical Charges and Payments and General Ophthalmic Services (Amendment) Regulations (Northern Ireland) 2003	<a href="#">S.R. 2003 No. 176</a>	Regulations 8, 9 and 10(2)
Optical Charges and Payments and General Ophthalmic Services (Amendment No. 2)	<a href="#">S.R. 2003 No. 424</a>	Regulation 3

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Regulations (Northern Ireland) 2003		
Optical Charges and Payments and General Ophthalmic Services (Amendment) Regulations (Northern Ireland) 2004	<a href="#">S.R. 2004 No. 92</a>	Regulation 6
Optical Charges and Payments and General Ophthalmic Services (Amendment No. 2) Regulations (Northern Ireland) 2004	<a href="#">S.R. 2004 No. 113</a>	Regulation 3
The General Medical Services Transitional and Consequential Provisions (No. 2) (Northern Ireland) Order 2004	<a href="#">S.R. 2004 No. 156</a>	Paragraph 4 of Schedule 1
Travelling Expenses and Remission of Charges and Optical Charges and Payments and General Ophthalmic Services (Amendment) Regulations (Northern Ireland) 2004	<a href="#">S.R. 2004 No. 162</a>	Regulation 3(2)
Optical Charges and Payments and General Ophthalmic Services (Amendment) Regulations (Northern Ireland) 2005	<a href="#">S.R. 2005 No. 71</a>	Regulation 6
General Ophthalmic Services (Amendment) Regulations (Northern Ireland) 2005	<a href="#">S.R. 2005 No. 292</a>	The whole regulations

## EXPLANATORY NOTE

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

These Regulations consolidate the provisions of the General Ophthalmic Services Regulations (Northern Ireland) 1986 (“the 1986 Regulations”). The 1986 Regulations and all subsequent amendments are repealed by regulation 23(1) and Schedule 3. There are also various minor changes, mainly of a drafting nature.

**Changes to legislation:** *There are outstanding changes not yet made by the legislation.gov.uk editorial team to General Ophthalmic Services Regulations (Northern Ireland) 2007. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)*

The Regulations make provision for the arrangements under which General Ophthalmic Services are provided. The principal matters covered by these Regulations are the qualifications of ophthalmic medical practitioners (regulations 5 to 7), the list of those providing general ophthalmic services (regulations 8 to 11), the determination of fees payable for those providing the services (regulation 12), the terms on which they provide them (regulation 13 and Schedule 1), payments to them (regulation 14 to 15), and provision for sight testing (regulations 16 to 18).

### Changes to legislation:

There are outstanding changes not yet made by the legislation.gov.uk editorial team to General Ophthalmic Services Regulations (Northern Ireland) 2007. Any changes that have already been made by the team appear in the content and are referenced with annotations.

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### Changes and effects yet to be applied to :

- Sch. 1 para. 14(3) omitted by S.R. 2014/2 reg. 5
- Sch. 1 para. 4(3) substituted by S.R. 2014/2 reg. 4(2)
- Sch. 1 para. 4(8) substituted by S.R. 2014/2 reg. 4(3)
- Sch. 1 para. 2(b)(i) substituted by S.R. 2016/104 reg. 14(3)(c)
- Sch. 1 para. 5(3)(b) words omitted by S.R. 2022/104 reg. 4(9)(c)(i)
- Sch. 1 para. 5(6) words omitted by S.R. 2022/104 reg. 4(9)(c)(ii)
- Sch. 1 para. 5(7) words omitted by S.R. 2022/104 reg. 4(9)(c)(ii)
- Sch. 1 para. 5(8) words omitted by S.R. 2022/104 reg. 4(9)(c)(ii)
- Sch. 1 para. 7(3)(b) words omitted by S.R. 2022/104 reg. 4(9)(d)
- Sch. 1 para. 4 words substituted by S.R. 2022/104 reg. 4(9)(a)
- Sch. 1 para. 5(2) words substituted by S.R. 2022/104 reg. 4(9)(a)
- Sch. 1 para. 5(5) words substituted by S.R. 2022/104 reg. 4(9)(a)
- Sch. 1 para. 5(7)(8) words substituted by S.R. 2022/104 reg. 4(9)(a)
- Sch. 1 para. 7(3)(a) words substituted by S.R. 2022/104 reg. 4(9)(a)
- Sch. 1 para. .008(2) words substituted by S.R. 2022/104 reg. 4(9)(a)
- Sch. 1 para. 9(2) words substituted by S.R. 2022/104 reg. 4(9)(a)
- Sch. 1 para. 11 words substituted by S.R. 2022/104 reg. 4(9)(a)
- Sch. 1 para. 8(2) words substituted by S.R. 2022/104 reg. 4(9)(e)
- Sch. 1 para. 9(2) words substituted by S.R. 2022/104 reg. 4(9)(e)
- Sch. 1 para. 2(b) words substituted by S.R. 2022/109 Sch. para. 23(2)(a)
- Sch. 1 para. 2(b) words substituted by S.R. 2022/109 Sch. para. 23(2)(b)
- Sch. 2 para. 6(a) words inserted by S.R. 2016/108 Sch. para. 51(3)
- Sch. 2 para. 1 words substituted by S.R. 2022/104 reg. 4(10)(a)
- Sch. 2 para. 9 words substituted by S.R. 2022/104 reg. 4(10)(b)(i)
- Sch. 2 para. 9 words substituted by S.R. 2022/104 reg. 4(10)(b)(ii)
- reg. 2 words inserted by S.R. 2014/2 reg. 2(4)
- reg. 2 words inserted by S.R. 2015/159 Sch. para. 44(2)
- reg. 2 words inserted by S.R. 2016/104 reg. 14(3)(a)
- reg. 2 words inserted by S.R. 2016/108 Sch. para. 51(2)
- reg. 2 words inserted by S.R. 2022/109 Sch. para. 23(1)
- reg. 2 words omitted by S.R. 2022/104 reg. 4(2)(a)
- reg. 2 words omitted by S.R. 2022/104 reg. 4(2)(b)
- reg. 2 words omitted by S.R. 2022/104 reg. 4(2)(c)
- reg. 2 words substituted by S.R. 2014/2 reg. 2(2)
- reg. 2 words substituted by S.R. 2014/2 reg. 2(3)
- reg. 8(1) words substituted by S.R. 2022/104 reg. 4(3)
- reg. 8(3)(b) words omitted by S.R. 2022/104 reg. 4(4)(a)
- reg. 8(3)(e) words substituted by S.R. 2022/104 reg. 4(3)
- reg. 8(4) words omitted by S.R. 2022/104 reg. 4(4)(b)
- reg. 8(5) words omitted by S.R. 2022/104 reg. 4(4)(c)
- reg. 9(1) words substituted by S.R. 2022/104 reg. 4(5)
- reg. 9(2) words substituted by S.R. 2022/104 reg. 4(3)
- reg. 10 word substituted by S.R. 2022/104 reg. 4(6)
- reg. 11 words substituted by S.R. 2022/104 reg. 4(3)
- reg. 13 words substituted by S.R. 2022/104 reg. 4(3)
- reg. 14(3)(b) substituted by S.R. 2014/267 reg. 16
- reg. 14(3)(b) words omitted by S.R. 2022/104 reg. 4(7)
- reg. 14(3)(b) words substituted by S.R. 2015/205 reg. 7
- reg. 14(3)(b) words substituted by S.R. 2016/104 reg. 14(3)(b)
- reg. 17(4)(b) substituted by S.R. 2014/2 reg. 3



- reg. 19(2) words substituted by S.R. 2022/104 reg. 4(3)
- reg. 21 words substituted by S.R. 2022/104 reg. 4(8)
- reg. 22 words substituted by S.R. 2022/104 reg. 4(3)

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

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

- Sch. 1 para. 4(9) inserted by S.R. 2014/2 reg. 4(4)
- Sch. 1 para. 4(8A) substituted for para. 4(9) by S.R. 2022/104 reg. 4(9)(b)
- Sch. 2 para. 6(ab) substituted for Sch. 2 para. 6(b) by S.R. 2015/159 Sch. para. 44(3)