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SCOTTISH STATUTORY INSTRUMENTS

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**2007 No. 193**

**The National Health Service (General Ophthalmic Services) (Scotland) Amendment Regulations 2007**

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

2.—(1) The National Health Service (General Ophthalmic Services) (Scotland) Regulations 2006<sup>(1)</sup> are amended as follows.

(2) In regulation 2(1) (interpretation)—

(a) in the definition of “enhanced criminal record certificate” for “section (6)”, substitute “section 113B(2)”;

(b) after the definition of “patient” insert—

““practice premises” means a place to which the public has unrestricted access during normal business hours and at which general ophthalmic services are provided;”;

(c) after the definition of “qualifications” insert—

““record of complaints” means a record of all complaints made by or on behalf of the patients and former patients of the contractor or an ophthalmic medical practitioner or optician who assists the contractor in the provision of general ophthalmic services”; and

(d) for the definition of “records” substitute—

““records” means records as specified in Schedule 5;”.

(3) In regulation 6 (Ophthalmic List)—

(a) in paragraph (3)(b) for “places” substitute “practice premises”; and

(b) in paragraphs (3)(j) and (4)(c) after “first registration” insert “, and any subsequent registration.”.

(4) In regulation 7 (application for inclusion in Ophthalmic List and notification of changes)—

(a) after paragraph (1) insert—

“(1A) An application may specify other Boards on whose Ophthalmic List the applicant wishes to be included and such an application shall include an undertaking to provide general ophthalmic services and comply with the terms of service in the areas of the Boards so specified.”;

(b) in paragraph (3)(b)—

(i) for “take up the references that” substitute “examine references obtained from the referees, the names and addresses of whom”; and

(ii) omit “and”;

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(1) S.S.I. 2006/135 as amended by S.S.I. 2006/329.

(2) 1997 c. 50. Section 113B was inserted by the Serious Organised Crime and Police Act 2005 (c. 15), section 163(2).

- (c) in paragraph 3(c) after “fraud”, insert–
  - “; and
  - (d) notify any other Boards on whose Ophthalmic List the applicant wishes to be included on the application.”;
- (d) in paragraph (6) after “2” insert “)”; and
- (e) after paragraph (10) insert–
  - “(11) Where an applicant for inclusion in a Board’s Ophthalmic List is already included on another Board’s Ophthalmic List and has specified such inclusion in the application, notwithstanding paragraphs (1), (3) and (6), the Board to which the application has been made may add the applicant to its Ophthalmic List without further enquiry.”.
- (5) In regulation 8 (grounds for refusal of application)–
  - (a) in paragraph (3) after “applicant”, where it occurs for the second time, insert “and any other Board which the applicant has specified in the application”; and
  - (b) after paragraph (3), insert–
    - “(4) When the Board has decided to include an applicant in the Ophthalmic List, and has notified another Board of that decision in accordance with paragraph (3), notwithstanding regulation 7(1), (3) and (6), that other Board may include the applicant in that Board’s Ophthalmic List without further enquiry.”.
- (6) In regulation 9(6) (deferment of decision on application) for “paragraph” substitute “regulation”.
- (7) In regulation 12(8) (removal from Ophthalmic List)–
  - (a) for “this regulation” substitute “these Regulations”; and
  - (b) for “place of business” substitute “practice premises”.
- (8) In regulation 14(3)(a) (disclosure of information) after “person’s services” insert “to provide or assist in the provision of general ophthalmic services”.
- (9) In regulation 15 (requirements with which an ophthalmic medical practitioner or optician included in an Ophthalmic List must comply)–
  - (a) in paragraph (1)(c) after “Regulations” insert “whether or not those undertakings were included in an application by that person under regulation 7”; and
  - (b) omit paragraph (2).
- (10) In regulation 16(2) (effect to be given to corresponding decisions in England, Wales and Northern Ireland) for “on”, substitute “in”.
- (11) In regulation 20(4) (payment) after “he”, insert “or she”.
- (12) In regulation 21 (payments to ophthalmic medical practitioners and opticians suspended)–
  - (a) in sub paragraph (3) after “suspended”, at both places where it occurs, insert “and may provide that the assessment of such remuneration shall take into account such factors and evidence as may be specified”; and
  - (b) for paragraph (6) substitute–
    - “(6) Where the Agency considers that it has made a payment to an ophthalmic medical practitioner or optician owing to an error or in circumstances where it was not due, it shall, except to the extent that the Scottish Ministers on the application of the Board direct otherwise, draw the overpayment to the attention of the ophthalmic medical practitioner or optician and the amount overpaid shall be recoverable as a debt by any lawful means.”.
- (13) In regulation 25 (service of documents) for “place at which the contractor has undertaken to provide general ophthalmic services”, substitute “practice premises”.

(14) In regulation 26(7) (revocation, savings and transitional provisions) for “sub-paragraph” substitute “paragraph”.

(15) In Schedule 1 (terms of service)–

(a) in paragraph 4(1) (premises at which general ophthalmic services are to be provided) in sub paragraph (1) for “at any address which is” substitute “at the addresses of all the practice premises which are”;

(b) in paragraph 6(1) (premises and equipment) after “services” insert “, at the practice premises”;

(c) in paragraph 9 (deputies)–

(i) in sub-paragraph (1) for “An ophthalmic medical practitioner may arrange for eye examinations to be carried out on his behalf by another ophthalmic medical practitioner, and an optician may arrange for eye examinations to be carried out on his behalf by another optician” substitute “An ophthalmic medical practitioner or optician may arrange for eye examinations to be carried out on his or her behalf by another ophthalmic medical practitioner or optician”; and

(ii) in sub-paragraph (2) for “paragraph” substitute “sub-paragraph”;

(d) in paragraph 10 (employees)–

(i) omit sub-paragraph (1);

(ii) in sub-paragraph (2) after “optician” insert “or ophthalmic medical practitioner”;

(iii) in paragraph (a) after “optician” insert “or ophthalmic medical practitioner”;

(iv) in paragraph (b) after “his” insert “or her”; and

(v) in sub-paragraph (3) for “paragraphs” substitute “sub-paragraphs”;

(e) in paragraph 11 (complaints)–

(i) before “premises”, at each place where it occurs, insert “practice”;

(ii) after “his”, at each place where it occurs, insert “or her”;

(iii) in sub-paragraph (7)(d) and (e) omit “eye examination”; and

(iv) in sub-paragraph (7)(e)–

(aa) for “record of all complaints” insert “record of complaints”; and

(bb) for “such records” insert “the record of complaints”;

(f) in paragraph 13(3) (payments) after “his”, where it occurs for the third time, insert “or her”;

(g) in paragraph 14 (eye examinations)–

(i) in sub-paragraph (1)(b) after “supplementary eye examination,” insert “following a primary eye examination, except where a child under the age of 16 is referred by an ophthalmic hospital to an optician or ophthalmic medical practitioner for a cycloplegic refraction,”; and

(ii) in sub-paragraph (6) for “3521:1962” substitute “2738-3:2004”; and

(h) in paragraph 15 (use of disqualified name) after “his” insert “or her”.

(16) In Schedule 2 (information, certificates, consents, declarations and undertakings to be included in an application for inclusion in the first part of the Ophthalmic List)–

(a) in paragraphs 1(e), (f), (g) and (h) of Part A before “premises” insert “practice”;

(b) in paragraph 1(o) of Part A and 1(j) of Part B omit “by the Agency”; and

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**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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- (c) in paragraph 3(b) of Part A and B after “certificate” insert “, dated not earlier than 2 years before the date of the application where the applicant has not worked in Scotland within that 2 year period.”.
- (17) In Table B of Schedule 3 (primary eye examination) in the entry relating to “patients with diabetes”–
  - (a) in column 1 for “Patients with diabetes” substitute “Patients aged 60 and over with diabetes”; and
  - (b) in column 2, omit “or head mounted indirect ophthalmoscopy”.
- (18) In column 1 of the Table in Schedule 4 (supplementary eye examination) for “Diabetes” substitute “Diabetes (where patient is aged under 60)”.