



Health and Medicines Act 1988

1988 CHAPTER 49

General ophthalmic services, optical appliances and sight-testing

14 Sight-testing

The following section shall be inserted after section 20A of the Opticians Act 1958—

“20B Duties to be performed on sight-testing

- (1) The Secretary of State may by regulations provide that, subject to any exceptions specified in the regulations, when a registered medical practitioner or registered ophthalmic optician tests the sight of another person, it shall be his duty—
 - (a) to perform such examinations of the eye for the purpose of detecting injury, disease or abnormality in the eye or elsewhere as the regulations may require, and
 - (b) immediately following the test to give the person whose sight he has tested a written statement—
 - (i) that he has carried out the examinations that the regulations require, and
 - (ii) that he is or (as the case may be) is not referring him to a registered medical practitioner.
- (2) Except in circumstances specified in regulations under subsection (3)(b) of this section, it shall also be his duty to give the person whose sight he has tested, immediately following the test, either a signed, written prescription for an optical appliance or a signed, written statement that he does not need to wear or use an optical appliance.
- (3) The Secretary of State may by regulations specify—
 - (a) particulars to be included in a prescription or statement provided in fulfilment of the duty imposed by subsection (2) of this section; and
 - (b) circumstances in which that duty does not arise.

- (4) A person shall not be required as a condition of having his sight tested—
- (a) to undertake to purchase from a specified person any optical appliance the testing of his sight may show he requires to wear or use; or
 - (b) to pay a fee before the testing is carried out.
- (5) A fee shall be payable in a case where a duty arises under this section only if that duty has been fulfilled.
- (6) Any term of an agreement for a testing of sight which is inconsistent with this section shall be unenforceable, and any sum paid in respect of a fee otherwise than in pursuance of this section shall be recoverable.
- (7) In this section “fee” means any payment in connection—
- (a) with testing sight in accordance with regulations under this section;
 - (b) with fulfilling any duty imposed by this section; or
 - (c) with the supply of optical appliances.
- (8) Any power to make regulations conferred by this section includes power to make different provision for different classes of case and shall be exercisable by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (9) In the application of this section to Northern Ireland—
- (a) for any reference to the Secretary of State there shall be substituted a reference to the Department of Health and Social Services for Northern Ireland;
 - (b) in subsection (8) of this section, for the words from “statutory instrument” onwards, there shall be substituted the words “statutory rule, which shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954”.