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STATUTORY INSTRUMENTS

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**2013 No. 335**

**The National Health Service (Performers  
Lists) (England) Regulations 2013**

**PART 4**

**Ophthalmic Performers List**

**CHAPTER 3**

**Ophthalmic Medical Practitioners**

**Qualifications of ophthalmic medical practitioners**

**42.**—(1) The prescribed qualifications and experience which a medical practitioner is to possess to be recognised as an ophthalmic medical practitioner are that the medical practitioner (at the date of consideration of that person’s application under regulations 4 and 39)—

- (a) has recent and adequate experience;
- (b) has held—
  - (i) an appointment in the health service, otherwise than under Part 4 of the National Health Service Act 1946<sup>(1)</sup>, Part 2 of the National Health Service Act 1977<sup>(2)</sup> or Part IV of the 2006 Act, with the status of consultant ophthalmologist, or
  - (ii) an appointment for a period of not less than 2 years of equivalent status as ophthalmic surgeon or assistant ophthalmic surgeon on the staff of an approved ophthalmic hospital; or
- (c) has—
  - (i) obtained the Membership of the Royal College of Ophthalmologists, or any approved higher degree or qualification, and
  - (ii) held one or more ophthalmic appointments in an approved ophthalmic hospital for a period totalling not less than 2 years, which must include tenure for a period totalling not less than 6 months of a residential appointment or an appointment with duties comparable with those of a residential appointment: this is subject to paragraph (3).

(2) In this regulation “approved” means approved by the Committee or by the appeal committee on appeal from the Committee under regulation 43 or 44.

(3) The tenure for 6 months of a residential or comparable appointment referred to in paragraph (1)(c)(ii) is not required in the case of a medical practitioner who has been fully registered for at least 7 years.

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(1) 1946 c. 81.  
(2) 1977 c. 49.

### **Approval of qualifications of ophthalmic medical practitioners**

**43.**—(1) A medical practitioner who wishes to be recognised as an ophthalmic medical practitioner must apply to the Committee for its approval of that person’s qualifications and experience and must give to the Committee such particulars of those qualifications and experience as the Committee may require.

(2) The Committee must consider and determine that applicant’s application and within 2 months after the date of the application must inform that applicant of its determination.

(3) If the Committee is satisfied that the applicant possesses the qualifications and experience prescribed by regulation 42 it must approve the applicant as an ophthalmic medical practitioner.

(4) Notwithstanding the provisions of regulation 42, a medical practitioner who has the prescribed qualifications for the purposes of providing general ophthalmic services in Scotland under the National Health Service (Scotland) Act 1978<sup>(3)</sup>, in Northern Ireland under the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(4)</sup> or in Wales under the National Health Service (Wales) Act 2006<sup>(5)</sup> must be approved as an ophthalmic medical practitioner.

(5) For the purposes of paragraph (2) the date of the application is the later of—

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

### **Appeals from the Committee**

**44.**—(1) Any person (“an appellant”) dissatisfied with a determination of the Committee that the appellant is not qualified to be an ophthalmic medical practitioner may, within one month from the date on which the appellant received notice of that determination, or such longer period as the Secretary of State may at any time allow, appeal against the determination by sending to the Secretary of State a notice of appeal stating the facts and contentions on which the appellant relies.

(2) The Secretary of State must—

- (a) after consultation with such bodies or organisations representing doctors as appear to the Secretary of State to be concerned with the issues relating to qualification as an ophthalmic medical practitioner, appoint an appeal committee of 3 persons to determine the appeal;
- (b) refer the appeal to that appeal committee;
- (c) send a copy of the notice of appeal to the Committee and to such other persons as may appear to the Secretary of State to be interested in the appeal; and
- (d) inform the appellant, the Committee 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 must be sent.

(3) The appeal committee may, and if the appellant so requests the Committee must, hold a hearing in connection with an appeal at such time and place as it may direct.

(4) Notice of the hearing must, not less than 14 days before the date of the hearing, be sent by recorded delivery service to the appellant, the Committee and any other person to whom the Secretary of State has under paragraph (2) sent notice of the appeal.

(5) If either party wish to appear before an appeal committee that party must give notice of the that fact within one month of being informed that the appeal has been referred to an appeal committee.

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(3) 1978 c. 29.

(4) 1972 No. 1265 (N.I. 14).

(5) 2006 c. 42.

- (6) Either party to an appeal is entitled to appear and be heard by counsel or solicitor and—
- (a) the Committee is entitled to appear by a member or by its clerk or other officer duly appointed for the purpose; and
  - (b) the appellant is entitled to appear in person, by any member of the appellant's family, by any friend, or by any officer or member of any organisation of which the appellant is a member.

(7) The procedure of the appeal committee in determining the appeal is to be such as it thinks fair and proper.

This is subject to the preceding provisions of this regulation.

(8) An appeal committee is to have all the powers of the Committee, including in particular the power of approval, and if satisfied that an appellant possesses the qualifications and experience prescribed by regulation 42, it must give that approval.

(9) The appeal committee must as soon as practicable notify its determination to the appellant, the Committee, the Secretary of State and any other person to whom the Secretary of State has under paragraph (2) sent notice of the appeal.