

**EXPLANATORY MEMORANDUM TO  
THE NATIONAL HEALTH SERVICE (OPTICAL CHARGES AND  
PAYMENTS) REGULATIONS 2013**

**2013 No. 461**

1. This explanatory memorandum has been prepared by The Department of Health and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
  - 2.1 This instrument consolidates the National Health Service (Optical Charges and Payments) Regulations 1997 (S.I. 1997/818) (“the 1997 Regulations”) and subsequent amendments. It also makes consequential amendments as a result of the abolition of certain bodies and the creation of the National Health Service Commissioning Board by the Health and Social Care Act 2012.
  - 2.2 These regulations provide a scheme for payments to be made in respect of costs incurred by certain categories of persons in connection with sight tests and the supply, replacement and repair of optical appliances (glasses and contact lenses).
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
  - 3.1 None
4. **Legislative Context**
  - 4.1 The 1997 Regulations provided for payments to be made to help with the cost of sight tests and optical appliances for certain categories of person. They also made provision for a charge in respect of the supply of an optical appliance. Assistance is given by way of a voucher system, with ophthalmic practitioners or suppliers of optical appliances being able to redeem a voucher in full or part payment of the cost of a sight test or the cost of supplying, repairing or replacing an optical appliance. The 1997 Regulations also provided for a charge to be made for the supply of optical appliances under the 2006 Act and for the cessation of payments to suppliers of optical appliances in certain circumstances.
  - 4.2 The 1997 Regulations were made under powers in the National Health Service Act 1977 but now take effect as if made under Part 9 of the National Health Service Act 2006 (“the 2006 Act”). They have been amended on numerous occasions since they were made.
  - 4.3 The Health and Social Care Act 2012 (“the 2012 Act”) abolishes Primary Care Trusts and Strategic Health Authorities with effect from 31st March 2013 and provides for functions in relation to ophthalmic services to transfer to the National Health Service Commissioning Board (“the Board”) created under the 2012 Act.

## **5. Territorial Extent and Application**

5.1 This instrument applies to England.

## **6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

What is being done and why?

7.1 This instrument consolidates the 1997 Regulations and subsequent amendments, and makes consequential amendments to reflect the fact that, from 1st April 2013, functions under the regulations will be undertaken by the National Health Service Commissioning Board rather than Primary Care Trusts. Under the 1997 Regulations payments in respect of vouchers were mainly made by Primary Care Trusts, though payments were made by an NHS trust or foundation trust where that trust had issued the voucher. From 1st April 2013 payments will be made by the Board.

7.2 This instrument also prescribes NHS trusts and NHS foundation trusts for the purposes of section 180(6A) of the 2006 Act, which means that the Board may direct an NHS trust or foundation trust to exercise any of the Board's functions under these Regulations. This will allow the Board to direct those trusts to make payments in cases where the trust issued the voucher.

7.3 The receipt of Universal Credit (UC) is made a ground of eligibility for a voucher following the introduction of UC as a welfare benefit this April. However, this is limited for the period April to October this year, in line with the 'Pathfinder' for UC, following which the policy in relation to UC will be reviewed.

7.4 The instrument makes transitional provision in respect of vouchers issued but not redeemed and payments due at the time the instrument comes into force.

7.5 The instrument also increases NHS optical voucher values by an overall 1%.

Consolidation

7.6 These regulations consolidate the 1997 Regulations and subsequent amendments.

## **8. Consultation outcome**

8.1 The Department of Health has consulted the Association of Optometrists, the Federation of Ophthalmic and Dispensing Opticians, the Association of British Dispensing Opticians, the British Medical Association Ophthalmic Group, the Royal College of General Practitioners, the Royal College of Ophthalmologists, the National Optometric Advisers Association, Diabetes UK, the International Glaucoma Association and the UK Vision Strategy.

8.2 It is usual practice to consult the representative bodies of providers on any proposed changes to the terms under which those providers operate.

8.3 There were few comments on the draft regulations although the optical bodies sought additional changes, which we will consider in future regulations as appropriate. This will allow other stakeholders the opportunity to comment and be after the NHS Commissioning Board has assumed its responsibilities and is able to give a view as to any changes needed for it to carry out its functions.

## **9. Guidance**

9.1 As these amendments are, in the main, consequential on the Health and Social Care Act 2012, the Department of Health does not propose to issue guidance on the impact of these regulations.

## **10. Impact**

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no negative impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument. The majority of amendments are being made as a consequence of the Health and Social Care Act 2012 for which a full impact assessment was undertaken.

10.4 Consideration has been given to whether any further impact assessment was required but this was not considered to be necessary.

## **11. Regulating small business**

11.1 There are no impacts on regulating small businesses by the consolidation, consequential and other amendments being made by these regulations.

## **12. Monitoring & review**

12.1 Administration of the optical voucher system will become the responsibility of the NHS Commissioning Board, however the Secretary of State will retain responsibility for regulations and for the consolidation of those regulations and for uprating of optical voucher values.

## **13. Contact**

**Derek Busby** at the Department of Health Tel: 020 7972 5656 or email: [Derek.busby@dh.gsi.gov.uk](mailto:Derek.busby@dh.gsi.gov.uk) can answer queries regarding the instrument.