

**EXPLANATORY MEMORANDUM TO**  
**THE CARE AND SUPPORT (SIGHT-IMPAIRED AND SEVERELY SIGHT-  
IMPAIRED ADULTS) REGULATIONS 2014**

**2014 No. 2854**

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 specifies the persons who are to be treated as being sight-impaired and severely sight-impaired for the purpose of duties on local authorities under the Care Act 2014 to maintain registers of persons who are sight-impaired and severely sight-impaired.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

**4. Legislative Context**

4.1 Section 77(1) of the Care Act 2014 requires local authorities to establish and maintain a register of adults who are ordinarily resident in their area who are sight-impaired or severely sight-impaired.

4.2 Section 77(2) enables regulations to specify descriptions of persons who are, or are not, to be treated as being sight-impaired or severely sight-impaired for this purpose. The instrument makes provision accordingly.

**5. Territorial Extent and Application**

5.1 This instrument applies to England only.

**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**

7.1. Section 29 of the National Assistance Act 1948 (the 1948 Act) and directions under that section require local authorities to make arrangements for compiling and maintaining classified registers of persons who are ordinarily resident in their area and to whom welfare arrangements (local authority arrangements for promoting welfare) under section 29(1) relate. Those persons include the blind and those who are substantially and permanently handicapped by illness, injury, congenital deformity or other prescribed disabilities. This would include partially sighted persons.

- 7.2. Recommendation was made in the Law Commission's report on Adult Social Care that the duty on local authorities to establish and maintain a register should be maintained but only in relation to blind and partially sighted people. The Law Commission recommended that in other cases, local authorities should be given a power to establish registers.
- 7.3. These registers enable local authorities to plan services, and enable people to establish eligibility for certain benefits such as non-social care benefits including travel concessions. Whilst section 29 of the 1948 Act also relates to other categories of disabled people (such as the deaf), the Law Commission noted that the disability register is significantly more accurate in relation to blind and partially sighted people and that most of the benefits linked to registration are directed at these groups.
- 7.4. Section 77 of the Care Act therefore requires local authorities to establish and maintain a register of adults who are severely sight-impaired and sight-impaired and ordinarily resident in their areas. This is the preferred new terminology in place of "blind" and "partially sighted". Section 77 also enables local authorities to establish and maintain registers of other persons such as those who have a disability or a physical or mental impairment giving rise to needs for care and support. It is intended that this framework will replace the existing duty on English local authorities under section 29 of the 1948 Act.
- 7.5. Currently registration is based on the signature of a consultant ophthalmologist certifying eligibility to be registered on a Certificate of Vision Impairment (CVI) form. The instrument continues this arrangement by specifying that persons are to be treated as sight-impaired or severely sight-impaired if they are certified as such by a consultant ophthalmologist. Currently, the CVI certification also acts as a referral for a social care assessment, if the individual is not yet known to social services as someone with needs arising from an impairment of vision.
- 7.6. The secondary purpose of the CVI is to record data to be used by Moorfields Eye Hospital for research at the Royal College of Ophthalmologists into the underlying causes and the effects of visual impairment.
- 7.7. Registration is voluntary. If the person receiving a CVI has given his or her consent to be registered then the local authority is able to add them to their register. However if consent has not been given, this should not stop the person receiving assistance for their care and support needs.
- 7.8. Whether a person is certified as sight-impaired or severely sight-impaired will depend on individuals' visual acuity and the extent to which their field of vision is restricted.

7.9. There are two levels of certification: severely sight-impaired and sight-impaired:

### **1. Severely sight-impaired**

“Severely sight-impaired” is now the preferred terminology used instead of “blind”. The Department of Health’s *Explanatory Notes for Consultant Ophthalmologists and Hospital Eye Clinic Staff* states that people who are severely sight-impaired can be classified into three groups:

Group 1: People whose eyesight is below 3/60 Snellen  
most people who have visual acuity below 3/60 Snellen.

Group 2: People who are 3/60 but below 6/60 Snellen  
: people who have a very contracted field of vision.

Group 3: People who are 6/60 Snellen or above : people in this group who have a contracted field of vision especially if the contraction is in the lower part of the field.

Vision acuity is measured using the Snellen test. A Snellen test usually consists of a number of rows of letters which get smaller as you read down the chart.

In addition to the 3 groups, a person is likely to be certified severely sight-impaired in the following circumstances:

- How recently the person’s eyesight has failed? A person whose eyesight has failed recently may find it more difficult to adapt than a person with same visual acuity whose eyesight failed a long time ago. This applies particularly to people who are in group 2 and 3 above.
- How old the person was when their eyesight failed? An older person whose eyesight has failed recently may find it more difficult to adapt than a younger person with the same defect. This applies particularly to people in group 2 above.

### **2. Sight-impaired**

The *Explanatory Notes for Consultant Ophthalmologists and Hospital Eye Clinic Staff* states that a person can be certified as sight -mpaired if they are ‘*substantially and permanently handicapped by defective vision caused by congenital defect or illness or injury*’.

People who are certified as sight-impaired are entitled to help from their local social services as are those who are certified as severely sight impaired. However, they may not be eligible for certain social security benefits and tax concessions for people who are certified as severely sight-impaired.

## **8. Consultation outcome**

8.1 The Department of Health has consulted widely on the draft regulations and guidance for Part 1 of the 2014 Care Act including the proposals for the instrument (concerning persons to be treated as sight-impaired or severely sight-impaired). This consultation went live on Friday 6<sup>th</sup> June 2014 and closed on Friday 15 August 2014.

8.2 Local authorities' continuing responsibility for maintaining registers of what are now known as sight-impaired and severely sight-impaired people resident in their area was seen as positive by most of those who responded. It was recognised that these registers enable local authorities to plan services and enable people to establish eligibility for certain benefits. No comments were received on the definitions included within these regulations.

8.3 The majority of the views were in support of other senior ophthalmologists being able to certify people as severely sight-impaired and sight-impaired provided they are trained to the required criteria.

8.4 The Government response to the consultation was published on 23 October and can be found here:

<https://www.gov.uk/government/consultations/updating-our-care-and-support-system-draft-regulations-and-guidance>

## **9. Guidance**

9.1 Statutory guidance to support implementation of Part One of the Care Act was subject to public consultation as part of the consultation on regulations under that part. The guidance was published at <https://www.gov.uk/government/publications/care-act-2014-statutory-guidance-for-implementation> on 23 October. This guidance is not itself the subject of parliamentary scrutiny.

9.2 A section on Sight Registers is contained in the statutory guidance which is intended to provide local authorities with the information they need about how they should meet the legal obligations placed on them by the Act.

## **10. Impact**

10.1 A separate impact assessment has not been prepared for this instrument. The instrument is part of a package of legislative measures and the relevant impact assessment can be requested via [careactconsultation@dh.gsi.gov.uk](mailto:careactconsultation@dh.gsi.gov.uk) or Department of Health, Richmond House, 79 Whitehall, London SW1A 2NS and is available online at <http://www.legislation.gov.uk/ukpga/2014/23/resources>.

10.2 As the impact assessment sets out, the instrument is not expected to represent an additional cost burden for either the public or private sector. As set out in the "Policy Background" section above, it is a replacement for existing legislation, updated to reflect the new context of the Care Act.

**11. Regulating small business**

11.1 The legislation does not apply to small businesses.

**12. Monitoring & review**

12.1 The instrument will not be specifically monitored but the Department of Health, working with the relevant professional and patient groups will be considering further whether other suitably qualified non consultant grades of ophthalmologists should be able to issue CVIs.

**13. Contact**

Kim Dhadha at the Department of Health Tel: 0207 210 5356 or email: kim.dhadha@dh.gsi.gov.uk. can answer any queries regarding the instrument.