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WELSH STATUTORY INSTRUMENTS

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**1999 No. 2841 (W.21)**

**NATIONAL HEALTH SERVICE, WALES**

**The National Health Service (Optical Charges and Payments) and (General Ophthalmic Services) Amendment (Wales) Regulations 1999**

*Made* - - - - *5th October 1999*  
*Coming into force* - - *5th October 1999*

The National Assembly for Wales makes the following Regulations in exercise of the powers conferred on the Secretary of State for Wales by sections 38(1), (3), (4) and (6), 39, 78, 126(4) and 128(1) and paragraphs 2 and 2A of Schedule 12 to the National Health Service Act 1977(1) and of all other powers enabling him in that behalf and now vested in the National Assembly for Wales(2):

**Citation, commencement, interpretation and extent**

1.—(1) These Regulations may be cited as the National Health Service (Optical Charges and Payments) and (General Ophthalmic Services) Amendment (Wales) Regulations 1999 and shall come into force on 5th October 1999.

(2) In these Regulations —

“the 1997 Regulations” means the National Health Service (Optical Charges and Payments) Regulations 1997(3);

“the 1986 Regulations” means the National Health Service (General Ophthalmic Services) Regulations 1986(4);

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- (1) 1977 c. 49; see section 128(1) as amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 26(2)(g) and (i), for the definitions of “prescribed” and “regulations”. Section 38 was amended by the Health Services Act 1980 (c. 53) (“the 1980 Act”), section 1 and Schedule 1, paragraph 51; by the Health and Social Security Act 1984 (c. 53) (“the 1984 Act”), section 1(3); by S.I.1985/39, article 7(11); by the Health and Medicines Act 1988 (c. 49) (“the 1988 Act”), section 13(1); and by the Health Authorities Act 1995 (c. 17) (“the 1995 Act”), Schedule 1, paragraph 27. Section 39 was extended by the 1988 Act, section 17; and amended by the 1980 Act, section 1 and Schedule 1, paragraph 52; by the 1984 Act, section 1(4), Schedule 1, Part I, paragraph 1 and Schedule 8, part I; by S.I. 1985/39, article 7(12); and by the 1995 Act, Schedule 1, paragraph 28. Section 126(4) was amended by the 1990 Act, section 65(2); and (in relation to England) the Health Act 1999 (c. 8), Schedule 4, paragraph 37(6). Paragraph 2(1) of Schedule 12 was substituted by the 1988 Act, Schedule 2, paragraph 8(1); paragraph 2A of Schedule 12 was inserted by the 1984 Act, Schedule 1, Part I paragraph 3 and amended by the 1988 Act, section 13(2) and (3).
- (2) The functions of the Secretary of State under sections 38(1), (3), (4) and (6), 39, 78, 126(4) and 128(1) and paragraphs 2 and 2A of Schedule 12 to the 1977 Act were transferred to the National Assembly for Wales (“the Assembly”) by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).
- (3) S.I. 1997/818; the relevant amending instrument is S.I. 1999/609.
- (4) S.I. 1986/975; the relevant amending instruments are S.I. 1989/395, 1995/558 and 1996/2320.

“the 1999 Regulations” means the National Health Service (Optical Charges and Payments) and (General Ophthalmic Services)(Amendment) Regulations 1999<sup>(5)</sup> and the National Health Service (General Ophthalmic Services) (Amendment) Regulations 1999<sup>(6)</sup>.

(3) These Regulations shall apply to Wales only.

#### **Amendment of the 1997 Regulations**

2. —At the end of regulation 1 of the 1997 Regulations there shall be inserted the following paragraph —

“(5) In respect of paragraph (2) of this regulation and regulation 8 the amendments made by the National Health Service (Optical Charges and Payments) and (General Ophthalmic Services) Regulations 1999<sup>(6)</sup><sup>(7)</sup> shall also have effect in Wales.”.

#### **Amendment of the 1986 Regulations**

3. —At the end of regulation 2 of the 1986 Regulations there shall be inserted the following paragraph —

“(3) In respect of paragraph (1) of this regulation and regulation 13 the amendments made by the National Health Service (Optical Charges and Payments) and (General Ophthalmic Services) Regulations 1999<sup>(6)</sup><sup>(7)</sup> and the National Health Service (General Ophthalmic Services) (Amendment) Regulations 1999<sup>(7)</sup><sup>(8)</sup> shall also have effect in Wales.”.

#### **Transitional Provision**

4.—(1) Where immediately before 5th October 1999 a person, or a member of his family was in receipt of disability working allowance or family credit, as the case may be, the amendments made by the 1999 Regulations, as they have effect in Wales by virtue of these Regulations, shall not have effect in his case for so long as he, or a member of his family, as the case may be, continues to be in receipt of disability working allowance or family credit.

(2) In this regulation, “disability working allowance” and “family credit” shall continue to have the meaning given to them in the 1997 Regulations or the 1986 Regulations, as the case may be, immediately before the coming into force of these Regulations.

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(5) S.I. 1999/2562.  
(6) S.I. 1999/2714  
(6) S.I. 1999/2714  
(7) S.I. 1999/2562.  
(6) S.I. 1999/2714  
(7) S.I. 1999/2562.  
(7) S.I. 1999/2562.  
(8) S.I. 1999/2714

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998<sup>(9)</sup>.

5th October 1999

*D. Elis Thomas*  
The Presiding Officer of the National Assembly  
of Wales

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations have effect to amend the National Health Service (Optical Charges and Payments) Regulations 1997 (“the 1997 Regulations”) which provide for payments to be made by means of a voucher system in respect of costs incurred by certain categories of persons in connection with the supply, replacement and repair of optical appliances. These Regulations also amend the National Health Service (General Ophthalmic Services) Regulations 1986 (“the 1986 Regulations”) which provide for the arrangements under which ophthalmic medical practitioners and ophthalmic opticians provide ophthalmic services.

The textual amendments of the 1997 Regulations and the 1986 Regulations which are made by the National Health Service (Optical Charges and Payments) and (General Ophthalmic Services) (Amendment) Regulations 1999 and the National Health Service (General Ophthalmic Services) (Amendment) Regulations 1999 and which extend to England are made to have effect in Wales.

In relation to both the 1997 Regulations and the 1986 Regulations the amendments insert a definition of “amount withdrawn” and substitute the definition of “disability working allowance” with a definition of “disabled person’s tax credit” and also substitute the definition of “family credit” with a definition of “working families’ tax credit”.

Regulation 8 of the 1997 Regulations defines the persons who are eligible for payments to meet, or to contribute towards the cost of being supplied with glasses and other optical appliances. The amendments to this regulation take account of the changes occurring on 5th October 1999 in the income tax and social security systems when family credit and disability working allowance are replaced by working families’ tax credit and disabled person’s tax credit.

The amendments similarly alter regulation 13 of the 1986 Regulations which defines eligibility for free sight tests.

The regulations contain a transitional provision that provides that the entitlement to free sight tests or payments towards the cost of glasses and other optical appliances shall continue whilst payment of family credit or disability working allowance continues.