
WELSH STATUTORY INSTRUMENTS

2023 No. 1053

The National Health Service (Ophthalmic Services) (Wales) Regulations 2023

PART 7

Consequential, revocation, transitional and saving provisions

Consequential amendments to primary legislation

39. The provisions listed in Schedule 5 are amended in relation to Wales as set out in that Schedule.

Minor and consequential amendments to secondary legislation

40. The provisions listed in Schedule 6 are amended in relation to Wales as set out in that Schedule.

Revocation provisions

41. Subject to the savings in regulation 42, the regulations listed in Schedule 7 are revoked in relation to Wales as set out in that Schedule.

Savings and transitional provisions

42.—(1) Where—

- (a) general ophthalmic services have been provided under arrangements made in accordance with the 1986 Regulations, but
- (b) payments for those services have not been made at the coming into force of these Regulations,

the Local Health Board must make payments for those services in accordance with the 1986 Regulations, which are saved for that purpose.

(2) A Local Health Board's ophthalmic list is deemed to include, for the relevant transitional period, any person whose name was included in the ophthalmic list of that Local Health Board kept under regulation 6 of the 1986 Regulations (ophthalmic list) immediately before the commencement date ("the previous ophthalmic list"), together with all the information relating to that person which is contained in the previous ophthalmic list.

(3) A Local Health Board's supplementary list is deemed to include, for the relevant transitional period, any person whose name was included in the supplementary list of that Local Health Board kept under regulation 3 of the 2006 Regulations (supplementary list) immediately before the commencement date ("the previous supplementary list"), together with all the information relating to that person which is contained in the previous supplementary list.

(4) A person who is deemed to be included in a Local Health Board's ophthalmic or supplementary list under paragraph (2) or (3), respectively, may at any time in the relevant transitional period—

- (a) provide general ophthalmic services or assist in the provision of those services (as the case may be);
- (b) provide eye examination services or assist in the provision of those services (as the case may be) if they are accredited to do so.

(5) Paragraph (7) applies if, before the end of the compliance period, a person who is deemed to be included in a Local Health Board's ophthalmic list provides the following to that Local Health Board—

- (a) evidence that they are qualified to provide the eye examination services, except in the case of a corporate optician;
- (b) an undertaking to provide primary ophthalmic services in the Local Health Board's area;
- (c) an undertaking to comply with the terms of service set out in Schedule 4.

(6) Paragraph (7) applies if, before the end of the compliance period, a person who is deemed to be included in a Local Health Board's supplementary list provides the following to that Local Health Board—

- (a) evidence that they are qualified to provide the eye examination services;
- (b) an undertaking not to assist in the provision of primary ophthalmic services in the area of another Local Health Board or equivalent body from whose combined list the qualified practitioner has been removed, except where that removal was at the qualified practitioner's request or in accordance with regulation 17(3)(e), without the consent of that Local Health Board or equivalent body.

(7) Where this paragraph applies—

- (a) the person is treated for the purposes of these Regulations as having applied to the Local Health Board for inclusion in the Local Health Board's ophthalmic or supplementary list (as appropriate) and been approved by that Local Health Board under regulation 13;
- (b) the Local Health Board must notify the person that they have been included in the relevant list.

(8) In this regulation, "compliance period", in relation to a person, means—

- (a) the period of 28 days beginning with the commencement date, or
- (b) if the Local Health Board in whose list the person is deemed to be included considers that it is not reasonably practicable for the person to comply with paragraph (5) or (6) (as appropriate) before the end of that period, such longer period as may be specified by the Local Health Board.

(9) In this regulation, "relevant transitional period", in relation to a person, means the period—

- (a) beginning with the commencement date, and
- (b) ending with the earlier of—
 - (i) the expiry of the compliance period in relation that person, and
 - (ii) the date on which the Local Health Board notifies the person that they have been included in the relevant list.

(10) For the period beginning with the commencement date and ending with 31 March 2024, a person registered as a person undertaking training as an optometrist in the register maintained under section 8A of the Opticians Act 1989 (register of students) is treated, for the purposes of regulation 8(3) and paragraph 18 of Schedule 4, as if the person were a student optometrist included in a Local Health Board's supplementary list.

- (11) Paragraph (12) applies where a Local Health Board has—
- (a) received an application for inclusion in its previous ophthalmic list or previous supplementary list, but
 - (b) not determined that application before the commencement date.

- (12) The Local Health Board must—
- (a) request the relevant evidence and undertakings set out in paragraph (5) or (6) (as appropriate), and
 - (b) following receipt of the relevant evidence and undertakings, determine the application in accordance with these Regulations.

(13) Any appeal or review started under the 1986 or 2006 Regulations which has not concluded at the commencement date must be conducted in accordance with the 1986 or 2006 Regulations (as appropriate), which are saved for those purposes.

(14) Subject to paragraphs (1) to (13), any action taken by or on behalf of a Local Health Board before the commencement date in relation to its previous ophthalmic list or previous supplementary list (or in relation to the persons or entries on those lists), has effect on and after the commencement date as if such action had been taken by that Local Health Board in relation to the relevant part of the combined list maintained by that Local Health Board on the commencement date or in relation to the persons or entries therein.

(15) Subject to paragraphs (1) to (13), any action taken by or on behalf of any other person before the commencement date in relation to the previous ophthalmic list or the previous supplementary list of a Local Health Board (or in relation to the persons or entries on those lists), has effect on and after the commencement date as if such action had been taken in relation to the relevant part of the combined list maintained by that Local Health Board on the commencement date or in relation to the persons or entries therein.

- (16) For the purposes of this regulation—

“the 1986 Regulations” (“*Rheoliadau 1986*”) means the National Health Service (General Ophthalmic Services) Regulations 1986(1) (revoked by regulation 41 and Schedule 7);

“the 2006 Regulations” (“*Rheoliadau 2006*”) means the National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services) (Amendment and Consequential Amendment) (Wales) Regulations 2006(2) (revoked by regulation 41 and Schedule 7).

(1) S.I. 1986/975, amended by S.I. 1996/705, S.I. 2002/1883 and S.I. 2006/181. There are other amending instruments but none is relevant to these Regulations. These Regulations were revoked in relation to England by S.I. 2008/1700.

(2) S.I. 2006/181 (W. 32).