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STATUTORY RULES OF NORTHERN IRELAND

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**1996 No. 135**

**HEALTH AND PERSONAL SOCIAL SERVICES**

**General Ophthalmic Services (Amendment)  
Regulations (Northern Ireland) 1996**

*Made* - - - - - *29th March 1996*

*Coming into operation* *1st April 1996*

The Department of Health and Social Services, in exercise of the powers conferred on it by Articles 62, 106 and 107(6) of, and paragraph 8E of Schedule 11 to, the Health and Personal Social Services (Northern Ireland) Order 1972(1) and Article 10 of the Health and Medicines (Northern Ireland) Order 1988(2) and of all other powers enabling it in that behalf, and in conjunction with the Department of Finance and Personnel and after consultation with such organisations as appeared to the Department to be representative of medical practitioners practising as ophthalmic medical practitioners, and ophthalmic opticians, as required by Article 62(3) of the said Order, hereby makes the following regulations:

**Citation, commencement and interpretation**

1.—(1) These regulations may be cited as the General Ophthalmic Services (Amendment) Regulations (Northern Ireland) 1996 and shall come into operation on 1st April 1996.

(2) In these regulations, the “principal regulations” means the General Ophthalmic Services Regulations (Northern Ireland) 1986(3).

**Amendment of regulation 2 of the principal regulations**

2. Regulation 2(1) of the principal regulations (interpretation) shall be amended as follows—

(a) after the definition of “the statement” there shall be inserted—

““suspended by direction of the Tribunal” means suspended as respects the provision of general ophthalmic services to patients by a direction of the Tribunal made pursuant to paragraph 8A(2) or paragraph 8B(1) of Schedule 11 to the Order(4) or

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(1) [S.I. 1972/1265 \(N.I. 14\)](#) as amended by [S.I. 1978/1907 \(N.I. 26\)](#) Article 13; [S.I. 1984/1158 \(N.I. 8\)](#) Article 3(1) and (2), paragraph 1 of Schedule 1, Article 17 and Part 1 of Schedule 6; [S.I. 1988/2249 \(N.I. 24\)](#) Article 8(1) and (2); [S.I. 1991/194 \(N.I. 1\)](#) Part I of Schedule 5; and [S.I. 1995/2704 \(N.I. 14\)](#)

(2) [S.I. 1988/2249 \(N.I. 24\)](#)

(3) [S.R. 1986 No. 163](#); relevant amending regulations are [S.R. 1988 No. 110](#), and [S.R. 1990 No. 191](#)

(4) Paragraph 8A and 8B of Schedule 11 were inserted by Article 4 of [S.I. 1995/2704 \(N.I. 14\)](#)

to any provisions in force in England and Wales or Scotland corresponding to those provisions;” and

(b) at the end there shall be inserted—

““training school” means a school approved by the Secretary of State under sections 137 and 138 of the Children and Young Persons Act (Northern Ireland) 1968<sup>(5)</sup>”.

#### **Amendment of regulation 8 of the principal regulations**

3. In regulation 8 (ophthalmic list), at the end of paragraph (1) there shall be inserted “and who are not disqualified for inclusion by virtue of the provisions of paragraphs 5, 7, 8A(3), 8B(1) or 8D(2) of Schedule 11 to the Order<sup>(6)</sup>”.

#### **Amendment of regulation 9 of the principal regulations**

4. In regulation 9 (application for inclusion in ophthalmic list), in paragraph (1)—

(a) at the end of sub-paragraph (a), “and” shall be omitted; and

(b) at the end of sub-paragraph (b), there shall be inserted—

“; and

(c) a declaration that he is not suspended by direction of the Tribunal.”.

#### **Amendment of regulation 11 of the principal regulations**

5. In regulation 11 (removal from ophthalmic list), after paragraph (2) there shall be inserted the following new paragraph—

“(2A) In calculating the period of 6 months referred to in paragraph (2), a Board shall disregard any period during which the contractor provided no general ophthalmic services by reason only that he was suspended by direction of the Tribunal.”.

#### **Amendment of regulation 14 of the principal regulations**

6. In regulation 14 (payment for services), in paragraph (2)(b) for “regulation 4(2) of the Health and Personal Social Services (Services Committee) Regulations (Northern Ireland) 1973” substitute “regulation 5(1) of the Health and Personal Social Services (Disciplinary Procedures) Regulations (Northern Ireland) 1996”<sup>(7)</sup>.

#### **Payments to suspended contractors**

7. After regulation 14 of the principal regulations the following new regulation shall be inserted—

##### **“Payments to contractors suspended by direction of the Tribunal**

**14A.**—(1) The Agency shall make payments to any contractor who is suspended by direction of the Tribunal in accordance with the Department’s determination for the time being in operation in relation to such payments.

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(5) 1968 c. 34

(6) Paragraph 8D of Schedule II was inserted by Article 4 of S.I. 1995/2704 (N.I. 14)

(7) S.R. 1996 No. 137

(2) The Department shall make the determination in accordance with paragraphs (3) and (4) after consultation with the organisations referred to in regulation 12(1) and it shall be published with the Statement there referred to.

(3) Subject to paragraph (4), the Department's determination shall be such as to secure that, as far as reasonably practicable, the suspended contractor receives payments at a rate corresponding to his remuneration by virtue of regulation 12 during the 12 months ending with the direction for suspension by the Tribunal.

(4) The Department's determination may include provision that payments in accordance with the determination are not to exceed a specified amount in any specified period.

(5) In a case to which paragraph 8B(3) of Schedule 11 to the Order applies, the determination shall provide for the amount by which a suspended contractor's payments are to be reduced to take account of any payments which he receives for providing general ophthalmic services other than as a principal.

(6) Regulation 12(2) shall apply to determinations under this regulation as it applies to determinations under that regulation.

(7) Regulation 14(2) shall apply to payments made under this regulation as it applies to payments made under that regulation."

#### **Amendment of Schedule 1 to the principal regulations**

**8.**—(1) Schedule 1 (terms of service for ophthalmic medical practitioners and opticians) shall be amended as follows.

(2) In paragraph 2 (incorporation of provisions), in sub-paragraph (b)—

(a) for "Health and Personal Social Services (Services Committee) Regulations (Northern Ireland) 1973" there shall be substituted "Health and Personal Social Services (Disciplinary Procedures) Regulations (Northern Ireland) 1996"; and

(b) in head (i), for "ophthalmic services committee" there shall be substituted "ophthalmic discipline committee".

(3) For paragraph 5 (notices) there shall be substituted—

"**5.** A contractor shall secure that at each place at which he provides general ophthalmic services there is prominently displayed a notice and leaflet supplied or approved by the Agency, indicating the services available under general ophthalmic services and indicating to which descriptions of his patients a payment may be made under the Optical Charges and Payments Regulations (Northern Ireland) 1989**(8)**".

(4) In paragraph 7 (deputies), in sub-paragraph (1), for "disqualified by the Tribunal from inclusion in the ophthalmic list" there shall be substituted—

"(a) who, having been disqualified under paragraph 3(b)**(9)** of Schedule 11 to the Order (or under any corresponding provision in force in England and Wales or Scotland) from inclusion in the ophthalmic list (or, in England and Wales, the ophthalmic list of a Health Authority, or, in Scotland, the ophthalmic list of a Health Board) is also the subject of a declaration under paragraph 3(c) of Schedule 11 to the Order (or any corresponding provision in force in England and Wales or Scotland) that he is not fit to be engaged in any capacity in the provision of general ophthalmic services; or

(b) who is suspended by direction of the Tribunal, other than in a case falling within paragraph 8B(3) of Schedule 11 to the Order."

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**(8)** S.R. 1989 No. 114

**(9)** Paragraph 3 of Schedule 11 was substituted by Article 3 of S.I. 1995/2704 (N.I. 14)

- (5) In paragraph 8 (employees), for sub-paragraph (3) there shall be substituted—
- “(3) A contractor shall not employ in the provision of general ophthalmic services any person—
- (a) who, having been disqualified under paragraph 3(b) of Schedule 11 to the Order (or under any corresponding provision in force in England and Wales or Scotland) from inclusion in the ophthalmic list (or, in England and Wales, the ophthalmic list of a Health Authority, or, in Scotland, the ophthalmic list of a Health Board), is also the subject of a declaration under paragraph 3(c) of Schedule 11 to the Order (or any corresponding provision in force in England and Wales or Scotland) that he is not fit to be engaged in any capacity in the provision of general ophthalmic services; or
  - (b) who is suspended by direction of the Tribunal, other than in a case falling within paragraph 8B(3) of Schedule 11 to the Order.”.
- (6) After paragraph 8 (employees), the following new paragraphs shall be inserted—

**“Complaints**

**8A.**—(1) Subject to sub-paragraphs (2) and (3), a contractor shall establish, and operate in accordance with this paragraph, a procedure (in this paragraph and in paragraph 8B referred to as a “complaints procedure”) to deal with any complaints made by or on behalf of his patients and former patients.

(2) The complaints procedure to be established by a contractor may be such that it also deals with complaints made in relation to one or more other contractors.

(3) The complaints procedure to be established by a contractor who provides general ophthalmic services from more than one set of premises may be such that it relates to all those premises together.

(4) A complaints procedure shall apply to complaints made in relation to any matter reasonably connected with the contractor’s provision of general ophthalmic services and within the responsibility or control of—

- (a) the contractor;
- (b) where the contractor is a body corporate, any of its directors or former directors;
- (c) a former partner of the contractor;
- (d) any other person (being an optician, an ophthalmic medical practitioner or a person authorised to test sight by rules made under section 24(3) of the Opticians Act 1989)(10) who is either employed by the contractor or engaged as his deputy;
- (e) any employee of the contractor other than one falling within head (d),

and in this paragraph and paragraph 8B, references to complaints are to complaints falling within this sub-paragraph.

(5) A complaint may be made on behalf of a patient or former patient with his consent, or—

- (a) where the patient is a child under the age of 16 years—
  - (i) by either parent, or in the absence of both parents, the guardian or other adult person who has care of the child, or
  - (ii) where the child is in the care of a Board or HSS trust to whose care he has been committed under the provisions of the Children and Young Persons Act (Northern Ireland) 1968, by a person duly authorised by that Board or trust, or;

- (iii) where the child is in the care of a voluntary organisation, by that voluntary organisation or a person duly authorised by it, or
    - (iv) where the child is in a training school, by the Manager of that training school;
  - (b) where the patient is incapable of making a complaint, by a relative or other adult person who has an interest in his welfare.
- (6) Where a patient has died, a complaint may be made by a relative or other adult person who had an interest in his welfare or, where the patient was as described in head (a)(ii), (iii), or (iv), of sub-paragraph (5), by the Board, HSS trust, voluntary organisation, or the Manager of the training school.
- (7) A complaints procedure shall comply with the following requirements—
- (a) the contractor must specify a person (who need not be connected with the contractor and who, in the case of an individual, may be specified by his job title) to be responsible for receiving and investigating all complaints;
  - (b) all complaints must be—
    - (i) recorded in writing,
    - (ii) acknowledged, either orally or in writing, within the period of three days (excluding Saturdays, Sundays, and Bank and Public Holidays) beginning with and including the day on which the complaint was received by the person specified under head (a) or where that is not possible, as soon as reasonably practicable, and
    - (iii) properly investigated;
  - (c) within the period of 10 days (excluding Saturdays, Sundays, and Bank and Public Holidays) beginning with and including the day on which the complaint was received by the person specified under head (a), or where that is not possible, as soon as reasonably practicable, the complainant must be given a written summary of the investigation and its conclusions;
  - (d) where the investigation of the complaint requires consideration of the patient's sight testing records, the person specified under head (a) must inform the patient or person acting on his behalf if the investigation will involve disclosure of information contained in those records to a person other than the contractor, or a director, partner, deputy or employee of the contractor; and
  - (e) the contractor must keep a record of all complaints and copies of all correspondence relating to complaints, but such records must be kept separate from patients' sight testing records.
- (8) At each of the premises at which the contractor provides general ophthalmic services he must provide information about the complaints procedure which he operates and give the name (or title) and address of the person specified under paragraph (7)(a).

**8B.**—(1) A contractor shall co-operate with any investigation of a complaint by the Board in accordance with the procedures which it operates in accordance with directions given under Article 17(1) of the Order, whether the investigation follows one under the contractor's complaints procedure or not.

- (2) The co-operation required by sub-paragraph (1) includes—
- (a) answering questions reasonably put to the contractor by the Board;
  - (b) providing any information relating to the complaint reasonably required by the Board; and

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- (c) attending any meeting to consider the complaint (if held at a reasonably accessible place and at a reasonable hour, and due notice has been given), if the contractor's presence at the meeting is reasonably required by the Board.

**Complaints against ophthalmic medical practitioners**

**8C.—**(1) A contractor who, being an ophthalmic medical practitioner, also provides general medical services shall secure that the practice based complaints procedure he has established and operates in accordance with paragraph 11B of the doctor's terms of service applies in relation to any matter reasonably connected with his provision of general ophthalmic services as it applies as respects his provision of general medical services.

(2) Accordingly, paragraph 11C of those terms of service also applies in relation to complaints about such matters.”.

(7) In paragraph 11 (use of disqualified name), in sub-paragraph (1), at the end there shall be inserted “by virtue of paragraph 5, 7, 8A(3), 8B(1) or 8B(2) of Schedule 11 to the Order.”.

Sealed with the Official Seal of the Department of Health and Social Services on

L.S.

29th March 1996.

*Joan Dixon*  
Assistant Secretary

Sealed with the Official Seal of the Department of Finance and Personnel on

L.S.

29th March 1996

*J. G. Sullivan*  
Assistant Secretary

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## EXPLANATORY NOTE

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

These regulations further amend the General Ophthalmic Services Regulations (Northern Ireland) 1986 (“the principal regulations”) to make provision relating to ophthalmic medical practitioners and ophthalmic opticians (“contractors”) who have been suspended from the provision of general ophthalmic services by the Tribunal or whom the Tribunal has declared not fit to be engaged in any capacity in the provision of those services.

The regulations also provide for payments to suspended contractors.

The regulations amend Schedule 1 to the principal regulations (contractors' terms of service) as follows:—

1. To prevent the employment, as an assistant or deputy, of any contractor suspended by the Tribunal who is also subject to a declaration by the Tribunal that he is not fit to be engaged in any capacity in the provision of general ophthalmic services;

2. To stipulate that a contractor must display, at each place where he provides general ophthalmic services a notice and leaflet (to be supplied or approved by the Central Services Agency) giving patients information about the optical voucher scheme whereby eligible persons can obtain help, by means of a voucher system, with costs incurred in connection with the supply, replacement and repair of optical appliances.

3. To require a contractor to establish and operate a system to deal with complaints. There is provision about who may complain, what they may complain about and how such complaints are to be dealt with and the publicity which a contractor must give to his complaints procedure. A contractor is also required to co-operate with complaints procedures which are operated by Boards.

The regulations also make other minor amendments.

A copy of the statement referred to in regulation 7 (which inserts a new regulation 14A into the principal regulations) can be obtained free of charge from the Central Services Agency, 25 Adelaide Street, BT12 8FH.

Paragraph 8E of Schedule 11 to the 1972 Order, one of the enabling provisions under which these regulations are made, is inserted by Article 4 of the Health and Personal Social Services (Amendment) (Northern Ireland) Order 1995 (“the 1995 Order”). The provisions of the 1995 Order, which amend the 1972 Order in relation to opticians and ophthalmic medical practitioners, are brought into operation on 29th March 1996 by virtue of the Health and Personal Social Services (Amendment) (1995 Order) (Commencement No. 2) Order (Northern Ireland) 1996 ([S.R. 1996 No. 123 \(C. 6\)](#)).