
SCOTTISH STATUTORY INSTRUMENTS

2018 No. 212

NATIONAL HEALTH SERVICE

The National Health Service (General Ophthalmic Services) (Scotland) Amendment Regulations 2018

Made - - - - 26th June 2018
Laid before the Scottish
Parliament - - - - 28th June 2018
Coming into force in accordance with regulation 1

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 26, 28A(4), 105(7) and 106(a) of the National Health Service (Scotland) Act 1978(1) and all other powers enabling them to do so.

Citation and commencement

1.—(1) These Regulations may be cited as the National Health Service (General Ophthalmic Services) (Scotland) Amendment Regulations 2018.

(2) Subject to paragraph (3), these Regulations come into force on 1st October 2018.

(3) Regulations 3(b), 5, 7(1)(c), (e) and (g), 9 and 10(5) come into force on 1st April 2019.

Amendment of the National Health Service (General Ophthalmic Services) (Scotland) Regulations 2006

2. The National Health Service (General Ophthalmic Services) (Scotland) Regulations 2006(2) are amended in accordance with regulations 3 to 13.

3. In regulation 2(1) (interpretation)—

(a) after the definition of “electronic communication” insert—

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- (1) [1978 c.29](#); section 26 was amended by the Health and Social Security Act [1984 \(c.48\)](#), section 1(7) and schedule 1, Part II, paragraph 1, the Health and Medicines Act [1988 \(c.49\)](#), section 13(4) and the Smoking, Health and Social Care (Scotland) Act [2005 \(asp 13\)](#), sections 13(2) and 19; section 28A(4) was inserted by the Health Act [1999 \(c.8\)](#) (“the 1999 Act”), section 57(1); section 105(7) was amended by the Health Services Act [1980 \(c.53\)](#), schedule 6, paragraph 5(1) and schedule 7, the Health and Social Services and Social Security Adjudications Act [1983 \(c.41\)](#), section 29(1) and schedule 9, Part I, paragraph 24 and the 1999 Act, schedule 4, paragraph 60; section 108(1) contains definitions of “regulations” and “prescribed” relevant to the exercise of the statutory powers under which these Regulations are made. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act [1998 \(c.46\)](#).
- (2) [S.S.I. 2006/135](#); relevant amending instruments are [S.S.I. 2006/329](#), [S.S.I. 2007/193](#), [S.S.I. 2010/86](#), [S.S.I. 2010/378](#), [S.S.I. 2012/36](#), [S.S.I. 2013/355](#) and [S.S.I. 2015/219](#).

““emergency eye examination” means an eye examination carried out, in circumstances that in the professional judgement of an ophthalmic medical practitioner or optician constitute an emergency, on the day that a person presents under regulation 21B or within a reasonable period thereof;”;

(b) in the definition of “eye examination form”, for “a form supplied by a Health Board” substitute “an electronic form supplied by the Agency”;

(c) after the definition of “general ophthalmic services” insert—

““Goldmann type tonometer” includes a Perkins type tonometer;”;

(d) in paragraph (b) of the definition of “supplementary eye examination”(3), for “22(3C)” substitute “22A(2)”.

4. In regulation 7(1)(b) (application for inclusion in ophthalmic list and notification of changes), for “3” substitute “3, 3A”.

5. In regulation 7(1)(b), for “13(2)(b), (3) and (4)” substitute “13(4) and (4A)”.

6. Before regulation 22 (application for an eye examination) and under the heading for Part V (procedure for choosing contractor) insert—

“Emergency eye examination

21B.—(1) Where a person presents to an ophthalmic medical practitioner or optician included in an Ophthalmic List in circumstances where that ophthalmic medical practitioner or optician considers it to be an emergency, that ophthalmic medical practitioner or optician—

(a) must carry out an emergency eye examination; or

(b) if unable to carry out an emergency eye examination, must, with the person’s agreement, take all reasonable steps to make an arrangement with—

(i) another ophthalmic medical practitioner or optician on the Ophthalmic List to carry out an emergency eye examination; or

(ii) a hospital or GP practice to examine the person,

and when making the arrangement, must indicate the degree of urgency.

(2) Before an ophthalmic medical practitioner or optician carries out an emergency eye examination under paragraph (1)(a) or (b)(i), the person must make an application for an eye examination under regulation 22(1).”.

7.—(1) In regulation 22 (application for an eye examination)—

(a) in paragraph (1), for “may” substitute “must”;

(b) in paragraph (2)(4), omit “provided for that purpose to contractors by the Board”;

(c) for paragraph (2) substitute—

“(2) The application must be made on an eye examination form and must be accompanied by a patient practice record form completed and signed by the applicant.”;

(d) in paragraph (2A)(5), for “is submitted” substitute “will be submitted to the Agency under paragraph 13(1) of schedule 1”;

(e) omit paragraph (2A);

(3) The definition of “supplementary eye examination” was substituted by [S.S.I. 2013/355](#).

(4) Regulation 22(2) was amended by [S.S.I. 2015/219](#).

(5) Regulation 22(2A) was inserted by [S.S.I. 2015/219](#).

- (f) for paragraph (2B)(6) substitute—
 - “(2B) Where paragraph (2A) applies, the applicant must, before an eye examination, complete, sign and submit to the ophthalmic medical practitioner or optician a patient practice record form.”;
 - (g) omit paragraph (2B);
 - (h) for paragraph (3)(b) substitute—
 - “(b) unless the eye examination is an emergency eye examination, be satisfied that it is necessary.”; and
 - (i) omit paragraphs (3A) to (3C)(7).
- (2) Paragraph (1)(b), (d) and (f) ceases to have effect on the coming into force of paragraph (1)(c), (e) and (g).

8. After regulation 22 insert—

“Frequency of eye examinations

22A.—(1) Where an eye examination is a primary eye examination, that examination must not be carried out more frequently than permitted as a condition of remuneration by the Statement.

(2) Where an eye examination is carried out more frequently than permitted as a condition of remuneration by the Statement, it must be undertaken as a supplementary eye examination.”.

9. In regulation 23 (application on behalf of children or incapable persons)—

- (a) in paragraph (1), for “general ophthalmic services in terms of these regulations shall be made and a signature required by these regulations shall be given” substitute “regulation 22(1) must be made, and the accompanying patient practice record form signed”;
- (b) in paragraph (2), for “an application” substitute “a patient practice record form”; and
- (c) omit paragraph (3)(8).

10.—(1) Schedule 1 (terms of service) is amended as follows.

(2) In paragraph 2 (incorporation of provisions)—

- (a) for sub-paragraph (g) substitute—
 - “(g) the College of Optometrists’ Guidance for Professional Practice(9);”;
- (b) at the end of sub-paragraph (g) omit “and”; and
- (c) after sub-paragraph (h)(10) insert—
 - “; and
 - (i) Scottish Intercollegiate Guidance Network 144: Glaucoma Referral and Safe Discharge(11).”.

(6) Regulation 22(2B) was inserted by [S.S.I. 2015/219](#).

(7) Regulation 22(3A) to (3C) was inserted by [S.S.I. 2010/86](#).

(8) Regulation 23(3) was inserted by [S.S.I. 2015/219](#).

(9) Guidance for Professional Practice was published on 24th November 2017, and is available at <https://guidance.college-optometrists.org/home/>. A paper copy of this guidance was made available to members of the College of Optometrists in February 2018.

(10) Paragraph 2(h) of schedule 1 was inserted by [S.S.I. 2012/36](#).

(11) Scottish Intercollegiate Guidance Network 144: Glaucoma Referral and Safe Discharge (ISBN 978 1 909103 36 8) was published in 2015 in Edinburgh by Health Improvement Scotland and the Scottish Intercollegiate Guidance Network. An online version is available at <http://www.sign.ac.uk/assets/sign144.pdf>.

(3) In paragraph 3(1) (certificate of training), for “applanation tonometry” substitute “contact applanation tonometry using a Goldmann type tonometer”.

(4) After paragraph 3 insert—

“Mandatory training

3A.—(1) Except in the case of a body corporate, in each relevant period an ophthalmic medical practitioner or optician providing or assisting in the provision of general ophthalmic services must—

(a) undertake a course of training provided by NHS Education for Scotland which comprises training on any or all of the following topics:—

- (i) the content and application of these Regulations and other relevant rules and law;
- (ii) record keeping;
- (iii) leadership, managing and working within an ophthalmic practice;
- (iv) clinical skills and governance;
- (v) managing ocular conditions;
- (vi) ethical and professional obligations;
- (vii) best practice guidance; and

(b) provide the Board with a certificate confirming that the ophthalmic medical practitioner or optician has completed the training satisfactorily.

(2) In this paragraph “relevant period” means each of the following periods—

- (a) 1st October 2018 until 31st December 2020;
- (b) 1st January 2021 until 31st December 2021; and
- (c) each successive period of 12 months after the period specified in head (b).”.

(5) In paragraph 13 (payments)—

- (a) in sub-paragraph (1A)(**12**), omit “either sub-paragraphs (2) and (3), or”;
- (b) omit sub-paragraphs (2) and (3);
- (c) in sub-paragraph (3B)(**13**)—
 - (i) omit “by means of electronic communication”; and
 - (ii) after “(3A)” insert “or (4A)”;

(d) after sub-paragraph (4) insert—

“(4A) The claim referred to in sub-paragraph (4) must be submitted to the Agency by electronic communication and must contain the PIN allocated to the ophthalmic medical practitioner or optician who assists the contractor in the provision of general ophthalmic services.”.

(6) In paragraph 14(1A)(**14**) (eye examinations)—

- (a) before “needs” insert “presenting signs, symptoms and”;
- (b) at the end of head (a) omit “or”; and
- (c) after head (a) insert—

(12) Paragraph 13(1A) of schedule 1 was inserted by [S.S.I. 2015/219](#).

(13) Paragraph 13(3B) of schedule 1 was inserted by [S.S.I. 2015/219](#).

(14) Paragraph 14(1A) of schedule 1 was inserted by [S.S.I. 2013/355](#).

“(aa) in the judgement of the ophthalmic medical practitioner or optician, the test or procedure is clinically inappropriate for any other reason; or”.

11. In paragraph 3(b)(15) of Part A of schedule 2 (information, declarations etc. to be included in application for inclusion in the first part of ophthalmic list), for “applanation tonometry” substitute “contact applanation tonometry using a Goldmann type tonometer”.

12. In paragraph 3(b)(16) of Part B of schedule 2 (information, declarations etc. to be included in application for inclusion in the second part of ophthalmic list), for “applanation tonometry” substitute “contact applanation tonometry using a Goldmann type tonometer”.

13. Omit schedule 3 (primary eye examination).

St Andrew’s House,
Edinburgh
26th June 2018

SHONA ROBISON
A member of the Scottish Government

(15) Paragraph 3(b) of Part A of schedule 2 was amended by [S.S.I. 2007/193](#).

(16) Paragraph 3(b) of Part B of schedule 2 was amended by [S.S.I. 2007/193](#).

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (General Ophthalmic Services) (Scotland) Regulations 2006 (“the 2006 Regulations”). The 2006 Regulations provide for arrangements under which general ophthalmic services are provided by Health Boards in Scotland in terms of the National Health Service (Scotland) Act 1978.

In addition to minor amendments, these Regulations make the changes detailed below.

Regulation 6 inserts a new regulation 21B into Part V of the 2006 Regulations. From 1st October 2018, a duty is placed on ophthalmic medical practitioners and opticians included on the Ophthalmic List to take certain steps where a person presents in circumstances where that ophthalmic medical practitioner or optician considers it to be an emergency.

Regulation 7 amends regulation 22 of the 2006 Regulation to (i) make miscellaneous amendments, which come into force on 1st October 2018, and (ii) to make amendments, which come into force on 1st April 2019, to reflect the introduction, through amendments to paragraph 13 of schedule 1 of the 2006 Regulations, of a requirement for all claims to the Common Services Agency for fees in respect of the provision of general ophthalmic services to be made electronically.

Regulation 8 inserts new regulation 22A into the 2006 Regulations. Regulation 22A(1) provides that primary eye examinations are not to be carried out more frequently than permitted as a condition of remuneration by the Statement. Under paragraph (2), an eye examination carried out more frequently than this must be undertaken as a supplementary eye examination. Related to this, regulation (7)(1) (i) omits regulation 22(3A) to (3C) and regulation 13 omits schedule 3 of the 2006 Regulations.

Regulation 10 makes a number of amendments to schedule 1 of the 2006 Regulations. In addition to minor amendments, regulation 10 makes the following changes:

- regulation 10(2) makes amendments to paragraph 2 of schedule 1, which include inserting “Scottish Intercollegiate Guidance Network 144: Glaucoma Referral and Safe Discharge” into the list in paragraph 2 of the 2006 Regulations;
- regulation 10(3) changes the reference in paragraph 3 of schedule 1 to “applanation tonometry” to “contact applanation tonometry using a Goldmann type tonometer”. Regulations 11 and 12 make consequential amendments to schedule 2;
- regulation 10(4) inserts paragraph 3A into schedule 1. Paragraph 3A(1) of the 2006 Regulations imposes a requirement, from 1st October 2018, on ophthalmic medical practitioners and opticians on the Ophthalmic List (with the exception of bodies corporate) to satisfactorily complete mandatory training in each relevant period. Sub-paragraph (2) defines “relevant period”;
- regulation 10(5) makes amendments to paragraph 13 of schedule 1 to provide that from 1st April 2019 all claims by a contractor for fees in respect of the provision of general ophthalmic services are to be made electronically. Regulation 10(5)(c)(ii) and (d) puts in place a requirement for the claim for remuneration completed under paragraph 13(4) of schedule 1 to be submitted to the Agency by electronic communication;
- regulation 10(6) amends paragraph 14(1A) of schedule 1 by adding an additional ground under which an ophthalmic medical practitioner or optician may determine that an eye examination need not consist of every test or procedure appropriate to the presenting signs, symptoms and needs of the patient. The additional ground is that, in the judgement of the ophthalmic medical

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practitioner or optician, the test or procedure is clinically inappropriate, other than as provided for in paragraph 14(1A)(a) of schedule 1.