



National Health Service Act 1977

1977 CHAPTER 49

PART II

GENERAL MEDICAL, GENERAL DENTAL, GENERAL OPHTHALMIC, AND PHARMACEUTICAL SERVICES

General ophthalmic services

38 Arrangements for general ophthalmic services.

[^{F1}(1)] [^{F2}It is the duty of every Family Practitioner Committee, in accordance with regulations, to arrange as respects their locality] with medical practitioners having the prescribed qualifications, [^{F3}and ophthalmic opticians for securing the testing][^{F4}by them of the sight—

- (a) of a child;
- (b) of a person whose resources fall to be treated under the regulations as being less than his requirements or as being equal to his requirements; or
- (c) of a person of such other description as may be prescribed.

(2) In this section—

“child” means—

- (a) a person who is under the age of 16 years; or
- (b) a person who is under the age of 19 years and receiving qualifying full-time education; and

“qualifying full-time education” means full-time instruction at a recognised educational establishment or by other means accepted as comparable by the Secretary of State, and for the purpose of this definition—

- (a) “recognised educational establishment” means an establishment recognised by the Secretary of State as being, or as comparable to, a school, college or university; and
- (b) regulations may prescribe the circumstances in which a person is or is not to be treated as receiving full-time instruction.

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- (3) Regulations under this section may direct how a person's resources and requirements are to be calculated and, without prejudice to the generality of this subsection, may direct that they shall be calculated—
- (a) by a method set out in the regulations;
 - (b) by a method described by reference to a method of calculating or estimating income or capital specified in an enactment other than this section or in an instrument made under an Act of Parliament or by reference to such a method but subject to prescribed modifications;
 - (c) by reference to an amount applicable for the purposes of a payment under an Act of Parliament or an instrument made under an Act of Parliament; or
 - (d) by reference to the person's being or having been entitled to payment under an Act of Parliament or an instrument made under an Act of Parliament.
- (4) Descriptions of persons may be prescribed for the purposes of subsection (1) above by reference to any criterion and, without prejudice to the generality of this subsection, by reference to any of the following criteria—
- (a) their age;
 - (b) the fact that a prescribed person or a prescribed body accepts them as suffering from a prescribed medical condition;
 - (c) the fact that a prescribed person or a prescribed body accepts that a prescribed medical condition from which they suffer arose in prescribed circumstances;
 - (d) their receipt of benefit in money or in kind under any enactment or their entitlement to receive any such benefit; and
 - (e) the receipt of any such benefit by other persons satisfying prescribed conditions or the entitlement of other persons satisfying prescribed conditions to receive such benefits.
- (5) Regulations which refer to an Act of Parliament or an instrument made under an Act of Parliament may direct that the reference is to be construed as a reference to that Act or instrument—
- (a) as it has effect at the time when the regulations are made; or
 - (b) both as it has effect at that time and as amended subsequently.
- (6) Regulations may provide that a person—
- (a) whose sight is tested by a person who provides general ophthalmic services; and
 - (b) who is shown during the testing or within a prescribed time after it to fall within subsection (1) above,
- shall be taken for the purposes of the testing to have so fallen immediately before his sight was tested; and the testing shall be treated—
- (i) for the purposes of any arrangements under this section;
 - (ii) for the purposes of remuneration in respect of the testing; and
 - (iii) for any such other purpose as may be prescribed,
- as a testing of sight under this Act.
- (7) Regulations shall define the services for the provision of which arrangements under this section are to be made and the services so defined are in this Act referred to as “general ophthalmic services”.]

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Textual Amendments

- F1 The first paragraph of s. 38 renumbered as s. 38(1) by [Health and Medicines Act 1988 \(c. 49, SIF 113:2\)](#), [s. 13\(1\)](#)
- F2 Words substituted by [S.I. 1985/39, art. 7\(11\)](#)
- F3 Words substituted by [Health and Social Security Act 1984 \(c. 48, SIF 113:1\)](#), [s. 1\(3\)](#)
- F4 [S. 38\(1\)\(a\)–\(7\)](#) and the words “by them of the sight—” substituted by [Health and Medicines Act 1988 \(c. 49, SIF 113:2\)](#), [s. 13\(1\)](#)

39 Regulations as to s. 38.

Regulations may provide as to the arrangements to be made under section 38 above, and shall include provision—

- (a) for the preparation and publication of lists of medical practitioners, [^{F5}and ophthalmic] opticians, respectively, who undertake to provide general ophthalmic services;
- (b) for conferring a right, subject to the provisions of this [^{F6}Part of this] Act relating to the disqualification of practitioners, on any medical practitioner having the prescribed qualifications, [^{F7}or ophthalmic] optician who wishes to be included in the appropriate list, to be so included;
- (c) for conferring on any person a right to choose in accordance with the prescribed procedure the medical practitioner or ophthalmic optician by whom his sight is to be tested, or from whom any prescription for the supply of optical appliances is to be obtained . . . ^{F8};
- (d) for the removal from the list of medical practitioners, [^{F9}or ophthalmic] opticians undertaking to provide general ophthalmic services for persons in any [^{F10}locality] of the name of any one in whose case it has been determined in such manner as may be prescribed that he has never provided, or has ceased to provide, such general ophthalmic services for persons in that [^{F10}locality].

Textual Amendments

- F5 Words substituted by [Health and Social Security Act 1984 \(c. 48, SIF 113:1\)](#), s. 1(6), [Sch. 1 Pt. I para. 1\(a\)](#)
- F6 Words inserted by [Health Services Act 1980 \(c. 53, SIF 113:2\)](#), [Sch. 1 para. 52](#)
- F7 Words substituted by [Health and Social Security Act 1984 \(c. 48, SIF 113:1\)](#), s. 1(6), [Sch. 1 Pt. I para. 1\(b\)](#)
- F8 Words repealed by [Health and Social Security Act 1984 \(c. 48, SIF 113:1\)](#), ss. 1(4), 24, [Sch. 8 Pt. I](#)
- F9 Words substituted by [Health and Social Security Act 1984 \(c. 48, SIF 113:1\)](#), s. 1(6), [Sch. 1 Pt. I para. 1\(c\)](#)
- F10 Word substituted by [S.I. 1985/39, art. 7\(12\)](#)

Modifications etc. (not altering text)

- C1 [S. 39](#) extended by [Health and Medicines Act 1988 \(c. 49, SIF 113:2\)](#), [s. 17\(1\)](#)

40 Medical practitioners with qualifications prescribed under s. 38.

The power conferred by section 38 above (in relation to general ophthalmic services) to prescribe the qualifications to be possessed by any medical practitioner includes a power—

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- (a) to prescribe a requirement that the practitioner shall show to the satisfaction of a committee recognised by the Secretary of State for the purpose that he possesses such qualifications, including qualifications as to experience, as may be mentioned in the regulations; and
- (b) to confer on a person who is dissatisfied with the determination of such a committee, a right of appeal to a committee appointed by the Secretary of State, and to provide for any matter for which it appears to the Secretary of State to be requisite or expedient to provide in consequence of the conferring of that right.

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