



Health and Medicines Act 1988

1988 CHAPTER 49

General ophthalmic services, optical appliances and sight-testing

13 General ophthalmic services and optical appliances.

^{F1}(1)

(2) In sub-paragraph (1) of paragraph 2A ^{F2}... and of Schedule 11 to the ^{M1}National Health Service (Scotland) Act 1978 after paragraph (c) (but not as part of it) there shall be added the words “or for which a prescription has been given for a person such as is mentioned in paragraph (a), (b) or (c) above in consequence of a testing of sight (not being a testing of sight under this Act) which took place in prescribed circumstances”.

^{F3}(3)

(4) In section 26 of the ^{M2}National Health Service (Scotland) Act 1978 (arrangements for provision of general ophthalmic services) in subsection (1), for the words from “—(a) the” to the end there shall be substituted the words “the testing by such practitioners and opticians 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.

(1A) 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 purposes of this definition—

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- (i) “recognised educational establishment” means an establishment recognised by the Secretary of State as being, or as comparable to, a school, college or university; and
 - (ii) regulations may prescribe the circumstances in which a person is or is not to be treated as receiving full-time instruction.
- (1B) 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.
- (1C) 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.
- (1D) 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.
- (1E) 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

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(iii) for any such other purpose as may be prescribed,
as a testing of sight under this Act.

(1F) 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”.

(5) The following sub-paragraphs shall be substituted for paragraph 2A(3) of Schedule 11 to the ^{M3}National Health Service (Scotland) Act 1978—

“(3) The Secretary of State may by regulations—

- (a) provide for himself or a Health Board to contribute to the cost of a testing of sight which he or the Board accepts as having been incurred by a person whose resources fall to be treated under the regulations as exceeding his requirements but only by an amount calculated under the regulations;
- (b) provide for payments to be made by him or by a Health Board to meet, or to contribute towards, any cost accepted by him or by the Board as having been incurred (whether by way of charge under this Act or otherwise) for the replacement or repair in prescribed circumstances of optical appliances for which a prescription was given in consequence of a testing of the sight of a person of a prescribed description; and
- (c) direct how a person’s resources and requirements are to be calculated and, without prejudice to the generality of this sub-paragraph, give any such direction as to how they are to be calculated as may be given by regulations under section 75A(3).

(3A) Descriptions of persons may be prescribed under this paragraph by reference to any criterion and, without prejudice to the generality of this sub-paragraph, by reference to any of the criteria specified in section 75A(2).

(3B) Subsection (4) of section 75A shall have effect in relation to regulations under this paragraph as it has effect in relation to regulations under that section.”

(6) F4

Textual Amendments

- F1** S. 13(1) repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 4** (with Sch. 2 Pt. 1 Sch. 3 Pt. 1)
- F2** Words in s. 13(2) repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 4** (with Sch. 2 Pt. 1 Sch. 3 Pt. 1)
- F3** S. 13(3) repealed (1.3.2007) by National Health Service (Consequential Provisions) Act 2006 (c. 43), s. 8(2), **Sch. 4** (with Sch. 2 Pt. 1 Sch. 3 Pt. 1)
- F4** S. 13(6)(7) repealed by Opticians Act 1989 (c. 44, SIF 83:1), s. 37(4), **Sch. 2**

Marginal Citations

- M1** 1978 c. 29.
- M2** 1978 c. 29.
- M3** 1978 c. 29.

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Sch. 11 words repealed by [2005 asp 13 sch. 3](#)