



# Opticians Act 1989

## 1989 CHAPTER 44

### PART IV

#### RESTRICTIONS ON TESTING OF SIGHT, FITTING OF CONTACT LENSES, SALE AND SUPPLY OF OPTICAL APPLIANCES AND USE OF TITLES AND DESCRIPTIONS

#### 26 Duties to be performed on sight testing.

- (1) The Secretary of State may by regulations provide that, subject to any exceptions specified in the regulations, when a registered medical practitioner or registered [<sup>F1</sup>optometrist] tests the sight of another person, it shall be his duty—
  - (a) to perform such examinations of the eye for the purpose of detecting injury, disease or abnormality in the eye or elsewhere as the regulations may require, and
  - (b) immediately following the test to give the person whose sight he has tested a written statement—
    - (i) that he has carried out the examinations that the regulations require, and
    - (ii) that he is or (as the case may be) is not referring him to a registered medical practitioner [<sup>F2</sup>and if he is referring him, the reason for the referral.]
- (2) [<sup>F3</sup>Except where regulations under subsection (3)(b) below specify otherwise] , it shall also be his duty to give the person whose sight he has tested, immediately following the test, either a signed, written prescription for an optical appliance or a signed, written statement that he does not need to wear or use an optical appliance.
- (3) The Secretary of State may by regulations specify—
  - (a) particulars to be included in a prescription or statement provided in fulfilment of the duty imposed by subsection (2) above; and
  - [<sup>F4</sup>(b) that that duty does not arise where a person is being fitted with contact lenses as part of the medical or clinical treatment provided for an eye condition.]
- (4) A person shall not be required as a condition of having his sight tested—

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**Changes to legislation:** *Opticians Act 1989, Section 26 is up to date with all changes known to be in force on or before 06 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (a) to undertake to purchase from a specified person any optical appliance the testing of his sight may show he requires to wear or use; or
  - (b) to pay a fee before the testing is carried out.
- (5) A fee shall be payable in a case where a duty arises under this section only if that duty has been fulfilled.
- (6) Any term of an agreement for a testing of sight which is inconsistent with this section shall be unenforceable, and any sum paid in respect of a fee otherwise than in pursuance of this section shall be recoverable.
- (7) In this section “fee” means any payment in connection—
- (a) with testing sight in accordance with regulations under this section;
  - (b) with fulfilling any duty imposed by this section; or
  - (c) with the supply of optical appliances.
- (8) Any power to make regulations conferred by this section includes power to make different provision for different classes of case.
- (9) In the application of this section to Northern Ireland for any reference to the Secretary of State there shall be substituted a reference to [<sup>F5</sup>the Department of Health, Social Services and Public Safety in Northern Ireland] .

#### Textual Amendments

- F1** Word in s. 26(1) substituted (coming into force in accordance with art. 1(3)-(6) of the amending S.I.) by [The Opticians Act 1989 \(Amendment\) Order 2005 \(S.I. 2005/848\)](#), [art. 19\(2\)\(a\)](#) (with [Sch. 2](#))
- F2** Words in s. 26(1)(b)(ii) added (coming into force in accordance with art. 1(3)-(6) of the amending S.I.) by [The Opticians Act 1989 \(Amendment\) Order 2005 \(S.I. 2005/848\)](#), [art. 19\(2\)\(b\)](#) (with [Sch. 2](#))
- F3** Words in s. 26(2) substituted (coming into force in accordance with art. 1(3)-(6) of the amending S.I.) by [The Opticians Act 1989 \(Amendment\) Order 2005 \(S.I. 2005/848\)](#), [art. 19\(3\)](#) (with [Sch. 2](#))
- F4** S. 26(3)(b) substituted (coming into force in accordance with art. 1(3)-(6) of the amending S.I.) by [The Opticians Act 1989 \(Amendment\) Order 2005 \(S.I. 2005/848\)](#), [art. 19\(4\)](#) (with [Sch. 2](#))
- F5** Words in s. 26(9) substituted (coming into force in accordance with art. 1(3)-(6) of the amending S.I.) by [The Opticians Act 1989 \(Amendment\) Order 2005 \(S.I. 2005/848\)](#), [art. 19\(5\)](#) (with [Sch. 2](#))

**Changes to legislation:**

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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):

- s. 13D(2)(h)(i) inserted by [S.I. 2008/1774 Sch. 2 para. 2](#) (This amendment not applied to legislation.gov.uk. It was due to come into force on the coming into force of s. 44(1) of the Safeguarding Vulnerable Groups Act 2006 (c. 47), see art. 1(4). S. 44(1) was repealed without ever being in force on 10.9.2012 by 2012 c. 9, s. 75(6), Sch. 10 Pt. 5; S.I. 2012/2234, art. 2)
- s. 13AA inserted by [2008 c. 14 Sch. 7 para. 30](#)
- s. 23I inserted by [2008 c. 14 Sch. 7 para. 46](#)
- s. 23AA inserted by [2008 c. 14 Sch. 7 para. 39](#)
- s. 23CA inserted by [2008 c. 14 Sch. 7 para. 42](#)