



National Health Service Act 2006

2006 CHAPTER 41

PART 6

OPHTHALMIC SERVICES

[^{F1}Duty of [^{F2}NHS England] in relation to primary ophthalmic services]

Textual Amendments

- F1** S. 115 cross-heading substituted (1.4.2013) by Health and Social Care Act 2012 (c. 7), s. 306(4), Sch. 4 para. 54(8); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F2** Words in Act substituted (1.7.2022) by Health and Care Act 2022 (c. 31), s. 186(6), Sch. 1 para. 1(1)(2); S.I. 2022/734, reg. 2(a), Sch. (with regs. 13, 29, 30)

115 Primary ophthalmic services

- (1) [^{F3}[^{F2}NHS England] must exercise its powers so as to secure the provision throughout England] of the following primary ophthalmic services—
- the sight-testing service mentioned in subsection (2),
 - such other primary ophthalmic services as may be prescribed, and
 - to the extent that it considers necessary to meet all reasonable requirements, any further primary ophthalmic services.

[^{F4}(1A) Arrangements made for the purposes of subsection (1) may include arrangements for the performance of a service outside England.]

- (2) The sight-testing service mentioned in subsection (1)(a) is a service for testing the sight of all of the following persons (except any such testing which takes place in prescribed circumstances)—
- those aged under 16,
 - those aged 16, 17 or 18 who are receiving qualifying full-time education,

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- (c) those whose resources must be treated in accordance with regulations as being less than or equal to their requirements,
 - (d) those aged 60 or over,
 - (e) those of such other description as may be prescribed.
- (3) Regulations may—
- (a) prescribe what “qualifying full-time education” is for the purposes of subsection (2)(b),
 - (b) make provision for the purposes of subsection (2)(c) about how a person's resources and requirements must be calculated.
- [^{F5}(4) [^{F2}NHS England] may (in addition to any other power conferred on it) make such arrangements for the provision of primary ophthalmic services as it considers appropriate; and it may, in particular, make contractual arrangements with any person.
- (4A) Arrangements made for the purposes of subsection (4) may include arrangements for the performance of a service outside England.]
- (5) [^{F2}NHS England] must publish information about such matters as may be prescribed in relation to the primary ophthalmic services provided under this Act.
- ^{F6}(6)
- (7) Regulations may provide that services of a prescribed description must, or must not, be regarded as primary ophthalmic services for the purposes of this Act (but these regulations may not affect the duty in subsection (1)(a)).
- (8) Regulations under subsection (7) may in particular describe services by reference to the manner or circumstances in which they are provided.
- (9) Regulations may provide that a person—
- (a) whose sight is tested by a person who is a party to a general ophthalmic services contract, and
 - (b) who is shown during the testing or within a prescribed time after it to fall within any of paragraphs (a) to [^{F7}(e)] of subsection (2),
- must be taken for the purposes of the testing to have so fallen immediately before his sight was tested.
- (10) In the case mentioned in subsection (9), the testing of his sight must (unless it took place in circumstances prescribed under subsection (2)) be treated as a testing under the sight-testing service mentioned in subsection (1)(a)—
- (a) for the purposes of remuneration in respect of the testing, and
 - (b) for any such other purpose as may be prescribed.

Textual Amendments

- F3** Words in s. 115(1) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 54\(2\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F4** S. 115(1A) inserted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 54\(3\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F5** S. 115(4)(4A) substituted for s. 115(4) (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 54\(4\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)
- F6** S. 115(6) omitted (1.4.2013) by virtue of [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 54\(6\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

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F7 Word in s. 115(9)(b) substituted (1.4.2013) by [Health and Social Care Act 2012 \(c. 7\), s. 306\(4\), Sch. 4 para. 54\(7\)](#); S.I. 2013/160, art. 2(2) (with arts. 7-9)

116 Regulations under section 115: supplementary

- (1) Regulations under section 115 which refer to an Act of Parliament or an instrument made under an Act of Parliament may direct that the reference must 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.
- (2) Descriptions of persons may be prescribed under section 115(2)(e) by reference to any criterion, including the following—
 - (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 kind under any enactment or their entitlement to receive any such benefit,
 - (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.
- (3) Regulations under section 115(3)(b) may direct that a person's resources and requirements 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.

Changes to legislation:

National Health Service Act 2006, Cross Heading: Duty of NHS England in relation to primary ophthalmic services is up to date with all changes known to be in force on or before 18 April 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.

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Changes and effects yet to be applied to :

- s. 115 heading substituted by [2022 c. 31 Sch. 3 para. 29\(2\)](#)
- s. 115 cross-heading words substituted by [2022 c. 31 Sch. 3 para. 28](#)

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. 3B(1)(aa) inserted by [2022 c. 31 Sch. 3 para. 2\(b\)](#)
- s. 3B(1)(za) inserted by [2022 c. 31 Sch. 3 para. 2\(a\)](#)
- s. 13G(4) words omitted by virtue of 2012 c. 7, Sch. 14 para. 4A (as inserted) by [2014 c. 23 s. 120\(18\)\(a\)](#)
- s. 35(3A)(3B) inserted by [2012 c. 7 s. 159\(4\)](#)
- s. 35(3A) words substituted by [2022 c. 31 Sch. 5 para. 12\(4\)](#) (This amendment not applied to legislation.gov.uk. The insertion of s. 35(3A) by 2012 c. 7 s.159(4) not yet in force.)
- s. 40(4)-(4B) substituted for s. 40(4) by [2012 c. 7 Sch. 14 para. 5](#)
- s. 42(1A) inserted by [2012 c. 7 Sch. 14 para. 6](#)
- s. 65F(2A)-(2F) inserted by [2012 c. 7 Sch. 14 para. 15\(4\)](#) (This amendment is itself amended before it comes into force by 2014 c. 23, ss. 85(15), 120(18)(b)(c), 127(1); S.I. 2014/1714, art. 3(2)(b)(c))
- s. 65H(10A) inserted by [2012 c. 7 Sch. 14 para. 17\(4\)](#)
- s. 65H(10A) omitted by [2022 c. 31 Sch. 8 para. 7\(7\)](#) (This amendment not applied to legislation.gov.uk. 2012 c. 7 Sch. 14 revoked at 1.7.2022 by 2022 c. 31, s. 186(6), Sch. 7 para. 13 before the insertion of s. 65H(10A) could come into effect.)
- s. 82A-83A and cross-heading substituted for s. 83 and cross-heading by [2022 c. 31 Sch. 3 para. 3](#)
- s. 84(4)-(4B) substituted for s. 84(4) by [2022 c. 31 Sch. 3 para. 4\(4\)](#)
- s. 92(5A) inserted by [2022 c. 31 Sch. 3 para. 9\(4\)](#)
- s. 94(3)(ca)(cb) substituted for s. 94(3)(ca) by [2022 c. 31 Sch. 3 para. 11\(3\)](#)
- s. 98A98B substituted for s. 98A by [2022 c. 31 Sch. 3 para. 14](#)
- s. 98BC-99B and cross-heading substituted for s. 99 and cross-heading by [2022 c. 31 Sch. 3 para. 15](#)
- s. 100(3A)(3B) inserted by [2022 c. 31 Sch. 3 para. 16\(4\)](#)
- s. 109(3)(ca)(cb) substituted for s. 109(3)(ca) by [2022 c. 31 Sch. 3 para. 23\(3\)](#)
- s. 112(1)(za) inserted by [2022 c. 31 Sch. 3 para. 24\(2\)\(b\)](#)
- s. 114A114B substituted for s. 114A by [2022 c. 31 Sch. 3 para. 26](#)
- s. 114C and cross-heading inserted by [2022 c. 31 Sch. 3 para. 27](#)
- s. 116A116B and cross-heading inserted by [2022 c. 31 Sch. 3 para. 30](#)
- s. 117(4)(4A) substituted for s. 117(4) by [2022 c. 31 Sch. 3 para. 31\(4\)](#)
- s. 125A125B substituted for s. 125A by [2022 c. 31 Sch. 3 para. 39](#)
- s. 223C(1)(c)(d) inserted by [2022 c. 31 s. 28](#)
- s. 223LA inserted by [2022 c. 31 s. 30\(3\)](#)
- Sch. 15 para. 4(1)(b) and word omitted by [2012 c. 7 Sch. 14 para. 39\(3\)](#)