
STATUTORY INSTRUMENTS

2005 No. 848

The Opticians Act 1989 (Amendment) Order 2005

PART 5

Further amendments

Eye protection wear

20.—(1) Section 27 (sale and supply of optical appliances) is amended as follows.

(2) For subsections (1) to (3) substitute—

“(1) A person shall not sell—

- (a) any contact lens for use by any person who does not have a valid specification provided pursuant to section 25(5) above; or
- (b) subject to the following provisions of this section, any optical appliance or zero powered contact lens unless the sale is effected by or under the supervision of a registered medical practitioner, a registered optometrist or a registered dispensing optician.

(2) Subsection (1) above shall not apply to any of the following sales—

- (a) a sale for a person who has attained the age of sixteen of spectacles which have two single vision lenses of the same positive spherical power not exceeding 4 dioptries where the sale is wholly for the purpose of correcting, remedying or relieving presbyopia;
- (b) a sale of an optical appliance intended for use as protection or cover for the eyes in sports if—
 - (i) neither lens fitted to the appliance has a positive or negative spherical power exceeding 8 dioptries;
 - (ii) the appliance is an appliance with a single vision lens or single vision lenses; and
 - (iii) the appliance falls within any category of appliance specified in an order made by the Privy Council for the purposes of this section; or
- (c) a sale of a contact lens for a person who has attained the age of sixteen where the sale satisfies the requirements of subsection (3) below.

(3) Those requirements are that—

- (a) the seller has—
 - (i) the original specification;
 - (ii) a copy of the original specification which he verifies with the person who provided it; or
 - (iii) an order from the purchaser, submitted either in writing or electronically, which contains the particulars of the specification of the person who

intends to wear the contact lens (“the wearer”), and the seller verifies those particulars with the person who provided the specification;

- (b) the seller is reasonably satisfied that the goods ordered are for use by the person named in the specification;
- (c) the sale is made before the expiry date mentioned in the specification;
- (d) the seller is, or is under the general direction of, a registered medical practitioner, a registered optometrist or a registered dispensing optician; and
- (e) the wearer—
 - (i) is not, so far as the seller knows, registered as blind or registered as partially sighted in a register compiled by a local authority under section 29(4)(g) of the National Assistance Act 1948 (welfare services);
 - (ii) has not been certified as blind or as partially sighted and in consequence registered as blind or partially sighted in a register maintained by or on behalf of a council constituted under the Local Government (Scotland) Act 1994; or
 - (iii) has not been certified as blind and in consequence registered as blind in a register maintained by or on behalf of a Health and Social Services Board in Northern Ireland.

(3A) In this section—

- (a) “seller”—
 - (i) includes any person who supplies the optical appliance or, as the case may be, the zero powered contact lens whether or not payment is made to him for the supply; and
 - (ii) does not include a person who supplies the contact lens as part of the assessment process in the course of fitting the lenses to the individual; and
- (b) lenses are to be taken to have the same positive spherical power if the difference between them is within the tolerances relating to the power of such lenses specified from time to time by the British Standard Specification.

(3B) The seller must make arrangements, except in such cases or classes of cases as may be prescribed in rules made by the Council, for the individual for whom the optical appliance or, as the case may be, the zero powered contact lens is supplied to receive aftercare in so far as, and for so long as, may be reasonable in his particular case.

(3C) The Council may by rules specify the arrangements which are to be made or may be made under subsection (3B) above.”.

(3) In subsection (4)—

- (a) for the words “ophthalmic optician” substitute “optometrist”; and
- (b) after the words “optical appliance”, in each place that it appears, insert “or zero powered contact lens”.

(4) In subsection (5)—

- (a) after the words “the sale of an optical appliance” insert “or zero powered contact lens”;
- (b) in paragraph (a), for the words “registered optician or enrolled body corporate” substitute “registered optometrist, registered dispensing optician or business registrant”; and
- (c) in paragraph (b), after the words “optical appliances” insert “or zero powered contact lenses”.

(5) In subsection (7), for the words “ophthalmic optician” substitute “optometrist”.

- (6) In subsection (9)—
 - (a) after the words “optical appliance” insert “or zero powered contact lens”; and
 - (b) in paragraphs (a) and (b), after the word “appliance” insert “or lens”.
- (7) The amendments made by this article do not affect any offence committed before this article comes into force.