

EXPLANATORY MEMORANDUM TO
THE PRIMARY OPHTHALMIC SERVICES AND NATIONAL HEALTH SERVICE
(OPTICAL CHARGES AND PAYMENTS) AMENDMENT REGULATIONS 2008

2008 No. 2449

1. This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.
2. **Description**

These Regulations amend (a) the Primary Ophthalmic Services Regulations 2008 and (b) the National Health Services (Optical Charges and Payments) Regulation 1997.
3. **Matters of special interest to the joint Committee on Statutory Instruments or the Select Committee on Statutory Instruments.**
 - 3.1 None
4. **Legislative Background**
 - 4.1 These regulations:
 - (a) amend the Primary Ophthalmic Services Regulations 2008 to provide that a person (or a member of that person's family) receiving income-related employment and support allowance will be entitled to NHS funded sight tests.
 - (b) amend the National Health Services (Optical Charges and Payments) Regulations 1997 to provide that a person (or a member of that person's family) receiving income-related employment and support allowance will be entitled to NHS optical vouchers.
 - (c) amend the National Health Services (Optical Charges and Payments) Regulations 1997 definition of prisoner to make clear that only prisoners on leave from prison are entitled to an NHS optical voucher.
5. **Territorial Extent and Application**
 - 5.1 This instrument applies to England.
6. **European Convention on Human Rights**
 - 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.
7. **Policy Background**

7.1 The Welfare Reform Act 2007 will come into force on 27 October 2008. Section 1 of the Act introduces a new benefit for claimants having limited capacity to work. Employment and Support Allowance will replace both Incapacity Benefit which is based on National Insurance contributions and Income Support based on incapacity which is income based. Currently recipients of income support are entitled to NHS funded sight tests and optical vouchers. This amendment ensures that those receiving income-related employment and support allowance, who would previously have received income support, continue to receive the same entitlement once the new benefit is introduced.

7.2 In 2004 the responsibility for providing prisoners with sight tests and glasses was transferred from the Home Office to Primary Care Trusts (“PCTs”). PCTs make arrangements to have these services provided within prisons. Funds were transferred to PCTs when responsibility was transferred. At the same time we made provision for prisoners to be able to access NHS funded sight tests and NHS optical vouchers from those approved to provide such services on the high street. The amendment clarifies that this entitlement is only for those prisoners on leave from prison and not all prisoners, whose needs are met under the PCT arrangements. Regulations in respect of NHS funded sight tests have already been amended in this regard.

8. Impact

8.1 An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

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