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STATUTORY INSTRUMENTS

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**2013 No. 335**

**The National Health Service (Performers  
Lists) (England) Regulations 2013**

**PART 4**

**Ophthalmic Performers List**

**CHAPTER 1**

**Interpretation**

**Interpretation**

**36.** In this Part—

“the Committee” means the Ophthalmic Qualifications Committee, appointed by such organisations representative of the medical profession as may be recognised by the Secretary of State for the purposes of approving—

- (a) ophthalmic hospitals, academic degrees, academic or postgraduate courses in ophthalmology, and appointments affording special opportunities for acquiring the necessary skill and experience of the kind required for the provision of primary ophthalmic services; and
- (b) the qualifications of medical practitioners for the purposes of primary ophthalmic services;

“contractor” has the meaning given in section 117(5) of the 2006 Act (general ophthalmic services contracts)(1);

“ophthalmic hospital” includes an ophthalmic department of a hospital;

“ophthalmic medical practitioner” means a registered medical practitioner who has been recognised as an ophthalmic medical practitioner under regulations 43 or 44;

“ophthalmic practitioner” means either—

- (a) a registered optometrist, who is not a corporate body; or
- (b) an ophthalmic medical practitioner;

“professional registration number” means, in relation to an ophthalmic practitioner, the number against the ophthalmic practitioner’s name in the register;

“register” means—

- (a) in relation to an optometrist, the register maintained by the General Optical Council under section 7(a) (register of opticians) or 8B(1)(a) (visiting opticians from relevant European States: registers) of the Opticians Act 1989(2);
- (b) in relation to an ophthalmic medical practitioner, the register of medical practitioners;

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(1) Section 117 was amended by the Health and Social Care Act 2012 (c. 7), section 55 and Schedule 4, Part 6, paragraph 55.

(2) 1989 c. 44. Paragraph (a) of section 7 was substituted by S.I. 2005/848. Section 8B was inserted by S.I. 2007/3101.

“relevant scheme” means the scheme in respect of which the ophthalmic practitioner is applying to be included in an ophthalmic performers list; and

“scheme” means an arrangement to provide primary ophthalmic services under a general ophthalmic services contract within the meaning of section 117(2) of the 2006 Act (general ophthalmic services contracts).

## CHAPTER 2

### Ophthalmic Performers Lists

#### **Ophthalmic performers list**

**37.** An ophthalmic practitioner may not perform any primary ophthalmic services unless that ophthalmic practitioner is included in the ophthalmic performers list.

#### **Contents of the ophthalmic performers list**

**38.** In respect of any ophthalmic practitioner who is included in the ophthalmic performers list, the list must include—

- (a) the ophthalmic practitioner’s full name;
- (b) the ophthalmic practitioner’s professional registration number;
- (c) confirmation of whether the ophthalmic practitioner is a contractor under a general ophthalmic services contract;
- (d) if the ophthalmic practitioner is an ophthalmic medical practitioner, confirmation of that fact and the date of the ophthalmic practitioner’s approval as an ophthalmic medical practitioner under regulation 43 or 44; and
- (e) the date that the ophthalmic practitioner was first included in one of the following lists—
  - (i) the ophthalmic performers list,
  - (ii) an ophthalmic performers list kept by a Primary Care Trust prior to the transfer date,  
or
  - (iii) an ophthalmic list or ophthalmic supplementary list,  
specifying which list.

#### **Application for inclusion in the ophthalmic performers list**

**39.—(1)** In addition to satisfying the requirements of regulation 4, an application by an ophthalmic practitioner for inclusion in the ophthalmic performers list must satisfy the requirements of this regulation.

(2) The ophthalmic practitioner must provide—

- (a) details of the ophthalmic practitioner’s professional qualifications, details of where they were obtained and evidence of them, including, if the practitioner seeks inclusion as an ophthalmic medical practitioner, evidence of the ophthalmic practitioner’s approval as an ophthalmic medical practitioner under regulation 43 or 44;
- (b) a declaration that the ophthalmic practitioner is included in the register;
- (c) the ophthalmic practitioner’s professional registration number and date of first registration;
- (d) confirmation of whether the ophthalmic practitioner is a contractor under a general ophthalmic services contract; and

- (e) confirmation of whether the ophthalmic practitioner is a contractor under a general ophthalmic services contract for more than one scheme and, if so, which schemes and which of those schemes is the relevant scheme.
- (3) The ophthalmic practitioner must give the following undertakings—
  - (a) if the ophthalmic practitioner is a contractor under a general ophthalmic services contract, to comply with the requirements of paragraph 52 of Schedule 1 to the General Ophthalmic Services Contracts Regulations 2008 (gifts)(3); and
  - (b) if the ophthalmic practitioner is not a contractor under a general ophthalmic services contract, to comply with the requirements in sub-paragraph (a) as though the ophthalmic practitioner were such a contractor.
- (4) Any person who is not an optometrist, but expects to become so on successful completion of the necessary training and wishes to be entered on the performers list from the date of that person's entry in the register, may make an application to the Board not more than 3 months in advance of the date that that person expects to be entered in the register.
- (5) An application under paragraph (4) must, save in respect of the information required by paragraph (2)(b) and (c)—
  - (a) contain everything that an application by an ophthalmic practitioner for inclusion in the ophthalmic performers list must contain; and
  - (b) be treated as if it were such an application (and, in the application of these Regulations to any such application, a reference to an optometrist or ophthalmic practitioner is to be taken as including a reference to an applicant under paragraph (4)): this sub-paragraph is subject to paragraph (7).
- (6) An applicant under paragraph (4) must provide the information required by paragraph (2)(b) and (c) as soon as that applicant has been notified by the General Optical Council that the applicant has been admitted to the register.
- (7) The Board must decide an application under paragraph (4) within 7 days of receiving the information under paragraph (6), provided—
  - (a) the other requirements of regulation 4 and this regulation have been met;
  - (b) it has not sought further information, references or documentation from the applicant under regulation 5(2) or 5(3); and
  - (c) it has not deferred the application under regulation 8.

#### **Additional grounds for refusal**

- 40.**—(1) In addition to the grounds in regulation 7(2), the Board may refuse to include an ophthalmic practitioner in the ophthalmic performers list if—
- (a) in the case of an ophthalmic medical practitioner, regulation 27(1) applies to that ophthalmic practitioner; or
  - (b) in the case of an optometrist, the ophthalmic practitioner's registration in the register is subject to conditions by virtue of a direction of the Fitness to Practise Committee under section 13F (powers of the fitness to practise committee), 13I (power to order immediate suspension etc. after a finding of impairment of fitness to practise) or 13L (interim orders) of the Opticians Act 1989(4) or the ophthalmic practitioner is the subject of an order imposed by the Fitness to Practise Committee under section 13H (financial penalty order) of that Act(5).

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(3) [S.I. 2008/1185](#). Paragraph 52 of Schedule 1 was amended by [S.I. 2013/365](#).

(4) Sections 13F, 13I and 13L were inserted by [S.I. 2005/848](#).

(5) Section 13H was inserted by [S.I. 2005/848](#).

(2) For the purposes of regulation 7(2)(e), the date prescribed in this Part is 1st April 2005 or, if the ophthalmic practitioner had been included in an ophthalmic list, 14th December 2001.

### **Grounds for removal from the ophthalmic performers list**

**41.**—(1) In addition to the grounds in regulation 14(1), the Board must remove an ophthalmic practitioner from the ophthalmic performers list where it becomes aware that—

- (a) in the case of an ophthalmic medical practitioner, regulation 28(1) applies to the ophthalmic practitioner and paragraph (2) of that regulation does not apply; or
- (b) in the case of an optometrist, the ophthalmic practitioner’s registration in the register has been suspended.

This is subject to paragraph (2).

(2) For the purposes of regulation 14(3)(a), the date prescribed in this Part is 1st April 2005 or, if the ophthalmic practitioner had been included in an ophthalmic list, 14th December 2001.

(3) In calculating the period of 12 months under regulation 14(7), the Board must disregard any period during which the ophthalmic practitioner’s registration in the register is suspended.

## **CHAPTER 3**

### **Ophthalmic Medical Practitioners**

#### **Qualifications of ophthalmic medical practitioners**

**42.**—(1) The prescribed qualifications and experience which a medical practitioner is to possess to be recognised as an ophthalmic medical practitioner are that the medical practitioner (at the date of consideration of that person’s application under regulations 4 and 39)—

- (a) has recent and adequate experience;
- (b) has held—
  - (i) an appointment in the health service, otherwise than under Part 4 of the National Health Service Act 1946<sup>(6)</sup>, Part 2 of the National Health Service Act 1977<sup>(7)</sup> or Part IV of the 2006 Act, with the status of consultant ophthalmologist, or
  - (ii) an appointment for a period of not less than 2 years of equivalent status as ophthalmic surgeon or assistant ophthalmic surgeon on the staff of an approved ophthalmic hospital; or
- (c) has—
  - (i) obtained the Membership of the Royal College of Ophthalmologists, or any approved higher degree or qualification, and
  - (ii) held one or more ophthalmic appointments in an approved ophthalmic hospital for a period totalling not less than 2 years, which must include tenure for a period totalling not less than 6 months of a residential appointment or an appointment with duties comparable with those of a residential appointment: this is subject to paragraph (3).

(2) In this regulation “approved” means approved by the Committee or by the appeal committee on appeal from the Committee under regulation 43 or 44.

(3) The tenure for 6 months of a residential or comparable appointment referred to in paragraph (1)(c)(ii) is not required in the case of a medical practitioner who has been fully registered for at least 7 years.

<sup>(6)</sup> 1946 c. 81.

<sup>(7)</sup> 1977 c. 49.

### **Approval of qualifications of ophthalmic medical practitioners**

**43.**—(1) A medical practitioner who wishes to be recognised as an ophthalmic medical practitioner must apply to the Committee for its approval of that person’s qualifications and experience and must give to the Committee such particulars of those qualifications and experience as the Committee may require.

(2) The Committee must consider and determine that applicant’s application and within 2 months after the date of the application must inform that applicant of its determination.

(3) If the Committee is satisfied that the applicant possesses the qualifications and experience prescribed by regulation 42 it must approve the applicant as an ophthalmic medical practitioner.

(4) Notwithstanding the provisions of regulation 42, a medical practitioner who has the prescribed qualifications for the purposes of providing general ophthalmic services in Scotland under the National Health Service (Scotland) Act 1978<sup>(8)</sup>, in Northern Ireland under the Health and Personal Social Services (Northern Ireland) Order 1972<sup>(9)</sup> or in Wales under the National Health Service (Wales) Act 2006<sup>(10)</sup> must be approved as an ophthalmic medical practitioner.

(5) For the purposes of paragraph (2) the date of the application is the later of—

- (a) the date on which a completed application with all necessary supporting details is received by the Committee; or
- (b) if the Committee require any further particulars from the applicant, the date on which the Committee receive all the particulars which it requires.

### **Appeals from the Committee**

**44.**—(1) Any person (“an appellant”) dissatisfied with a determination of the Committee that the appellant is not qualified to be an ophthalmic medical practitioner may, within one month from the date on which the appellant received notice of that determination, or such longer period as the Secretary of State may at any time allow, appeal against the determination by sending to the Secretary of State a notice of appeal stating the facts and contentions on which the appellant relies.

(2) The Secretary of State must—

- (a) after consultation with such bodies or organisations representing doctors as appear to the Secretary of State to be concerned with the issues relating to qualification as an ophthalmic medical practitioner, appoint an appeal committee of 3 persons to determine the appeal;
- (b) refer the appeal to that appeal committee;
- (c) send a copy of the notice of appeal to the Committee and to such other persons as may appear to the Secretary of State to be interested in the appeal; and
- (d) inform the appellant, the Committee and any such other persons that the appeal has been referred to an appeal committee and of the address to which communications to the appeal committee must be sent.

(3) The appeal committee may, and if the appellant so requests the Committee must, hold a hearing in connection with an appeal at such time and place as it may direct.

(4) Notice of the hearing must, not less than 14 days before the date of the hearing, be sent by recorded delivery service to the appellant, the Committee and any other person to whom the Secretary of State has under paragraph (2) sent notice of the appeal.

(5) If either party wish to appear before an appeal committee that party must give notice of the that fact within one month of being informed that the appeal has been referred to an appeal committee.

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<sup>(8)</sup> 1978 c. 29.

<sup>(9)</sup> 1972 No. 1265 (N.I. 14).

<sup>(10)</sup> 2006 c. 42.

- (6) Either party to an appeal is entitled to appear and be heard by counsel or solicitor and—
- (a) the Committee is entitled to appear by a member or by its clerk or other officer duly appointed for the purpose; and
  - (b) the appellant is entitled to appear in person, by any member of the appellant’s family, by any friend, or by any officer or member of any organisation of which the appellant is a member.

(7) The procedure of the appeal committee in determining the appeal is to be such as it thinks fair and proper.

This is subject to the preceding provisions of this regulation.

(8) An appeal committee is to have all the powers of the Committee, including in particular the power of approval, and if satisfied that an appellant possesses the qualifications and experience prescribed by regulation 42, it must give that approval.

(9) The appeal committee must as soon as practicable notify its determination to the appellant, the Committee, the Secretary of State and any other person to whom the Secretary of State has under paragraph (2) sent notice of the appeal.