STATUTORY INSTRUMENTS

2005 No. 1481

OPTICIANS

DOCTORS

NATIONAL HEALTH SERVICE

The Contact Lens (Specification) and Miscellaneous Amendments Regulations 2005

Made - - - -	*6th June 2005*
Laid before Parliament	*7th June 2005*
Coming into force	*30th June 2005*

The Secretary of State for Health, in exercise of the powers conferred upon her by sections 38, 39, 43D and 126(4) of the National Health Service Act 1977(**a**), sections 25(7)(b) and 26 of the Opticians Act 1989(**b**) and all other powers enabling her in that behalf, hereby makes the following Regulations:

Citation, commencement and application

1.—(1) These Regulations may be cited as the Contact Lens (Specification) and Miscellaneous Amendments Regulations 2005 and shall come into force on 30th June 2005.

(2) Regulations 2 and 5 apply in relation to England and Wales and Scotland.

(3) Regulations 3 and 4 apply in relation to England only.

(**a**) 1977 c.49 ("the 1977 Act"); see section 128(1), as amended by the National Health Service and Community Care Act 1990 (c.19) ("the 1990 Act"), section 26(2)(g) and (i), for the definitions of "prescribed" and "regulations". Section 38 was amended by the Health and Social Security Act 1984 (c.48) ("the 1984 Act"), s. 1(3); the Health and Medicines Act 1988 (c.49), s. 13; S.I. 1985/39, art. 7(11); the Health Authorities Act 1995 (c.17) ("the 1995 Act"), Schedule, paragraphs 1 and 27 and by the National Health Service Reform and Health Care Professions Act 2002 (c.17) ("the 2002 Act"), Schedule 2, paragraphs 1 and 11. Section 39 was amended by the Health Services Act 1980 (c.53), ss 1, 2 and Schedule 1, paragraph 52; the 1984 Act, s. 1, Schedule 1, paragraph 1, and Schedule 8, Part I; the 1995 Act, s. 2 and Schedule 1, paragraph 28; the National Health Service (Primary Care) Act 1997 (c.46), Schedule 2, paragraphs 70 and 75; the Health Act 1999 (c.8) ("the 1999 Act"), s. 9(4); by the Health and Social Care Act 2001 (c.15) ("the 2001 Act"), ss 20 and 23 and by the 2002 Act, Schedule 2, paragraphs 1 and 12. Section 43D was inserted by the 2001 Act, s. 24 and amended by the 2002 Act, s. 2(5) and Schedule 2, paragraph 20. Section 126(4) was amended by the 1990 Act, s. 65(2); by the 1999 Act, Schedule 4, paragraph 37(6) and by the 2001 Act, Schedule 5, paragraph 5(13)(b). As regards Wales, the functions of the Secretary of State under ss 29 and 126(4) of the 1977 Act are transferred to the National Assembly for Wales under article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672; section 68 of the 2001 Act provides that Schedule 1 shall be construed so as to include the amendments made by that Act to the 1977 Act; regulations 3 and 4 of these Regulations therefore extend only to England.

(**b**) 1989 c.44; section 25(7)(b) was added by and section 26 was amended by S.I. 2005/848.

Duty to provide Contact Lens Specification

2. Where a registered medical practitioner issues a specification to an individual to whom he has fitted a contact lens, pursuant to section 25(5) of the Opticians Act 1989(**a**), it shall contain the following particulars—

(a) the name and address of the individual;

(b) if the individual has not attained the age of sixteen on the day the specification is issued, his date of birth;

(c) the name of that practitioner and his registration number in the General Medical Council's register of registered medical practitioners;

(d) the address from which that practitioner practises;

(e) the name of the practice on whose premises the fitting was done;

(f) the date the fitting was completed;

(g) sufficient details of any lens fitted to enable a person who fits or supplies a contact lens to replicate the lens;

(h) the date the specification expires; and

such information of a clinical nature as that practitioner considers to be necessary in the particular case.

Amendment of the National Health Service (General Ophthalmic Services) Regulations 1986

3.—(1) The National Health Service (General Ophthalmic Services) Regulations 1986(**b**) shall be amended in accordance with the following provisions of this regulation.

(2) In regulation 2(1) (interpretation)—

(a) for the definition of "corporate optician", substitute—

""corporate optician" means a body corporate registered in the register of bodies corporate maintained under section 9 of the Opticians Act 1989, which is carrying on business as an optometrist;" and

(b) for the definition of "optician" substitute—

""optician" means a person registered in the register of optometrists maintained under section 7 (register of opticians) of the Opticians Act 1989(**c**) or a corporate optician;".

(3) In regulation 9C(1) (cases where the Primary Care Trust must remove an ophthalmic medical practitioner or optician) (**d**), after sub-paragraph (e), add—

"(f) in the case of an optician, is the subject of a direction made by the Fitness to Practise Committee of the General Optical Council other than in a health case to erase his name from the appropriate register or suspend his registration under section 13F(3)(a) or (b), (7)(a) or (b) or (13)(a) or (b) (powers of the Fitness to Practise Committee) of the Opticians Act 1989(**e**).

(1A) In paragraph (1), "health case" has the meaning given to it in section 13G(6) of the Opticians Act 1989(**f**).".

(4) In regulation 10(1) (the Statement)(**g**)—

(a) after "as to" insert "—

"(a) "; and

(b) at the end add—

(**a**) Section 25(5) was added by S.I. 2005/848.
(**b**) S.I. 1986/975, the definition of corporate optician was inserted by S.I. 2005/480.
(**c**) Section 7 was amended by S.I. 2005/848.
(**d**) Regulation 9C was inserted by S.I. 2001/3739; paragraph (1) was amended by S.I. 2002/2469 and S.I. 2005/480.
(**e**) Section 13F was inserted by S.I. 2005/848.
(**f**) Section 13G was inserted by S.I. 2005/848.
(**g**) Regulation 10 was amended, in relation to England, by S.I. 2001/3739 and 2002/2469.

"and

(b) the allowances to be paid in respect of continuing education and training by ophthalmic medical practitioners and opticians other than corporate opticians.".

Amendment of the National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services Amendment and Consequential Amendment) Regulations 2005

4.—(1) The National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services Amendment and Consequential Amendment) Regulations 2005(**a**) shall be amended in accordance with this regulation.

(2) At the end of regulation 6 (decisions and grounds for refusal) add paragraph (7)—

"(7) When the Primary Care Trust notifies the ophthalmic medical practitioner or optician under paragraph (6)(b), it shall also inform him that if he wishes to exercise a right of appeal he must do so within the period of 28 days beginning with the date on which it gave him the notice informing him of its decision, and shall tell him how to exercise any such right.".

(3) In regulation 10 (removal from supplementary list)—

(a) in paragraph (1), after sub-paragraph (g), insert sub-paragraph (gg)—

"(gg) in the case of an optician, is the subject of a direction made by the Fitness to Practise Committee of the General Optical Council other than in a health case to erase his name from the appropriate register or suspend his registration under section 13F(3)(a) or (b), (7)(a) or (b) or (13)(a) or (b) (powers of the Fitness to Practise Committee) of the Opticians Act."; and

(b) after paragraph (1), insert paragraph (1A)—

"(1A) In paragraph (1), "health case" has the meaning given to it in section 13G(6) of the Opticians Act 1989(**b**).".; and

(c) in paragraph (8)(d), omit the comma after "requests".

(4) In regulation 13(4) (suspension), for "paragraph (1) or (2)", substitute "paragraph (2) or (3)".

(5) In regulation 14 (reviews), after paragraph (7), insert paragraph (7A)—

"(7A) When the Primary Care Trust notifies the ophthalmic medical practitioner or optician under paragraph (7)(c), it shall also inform him that if he wishes to exercise a right of appeal he must do so within the period of 28 days beginning with the date on which it gave him the notice informing him of its decision, and shall tell him how to exercise any such right.**"**.

(6) In regulation 21 (transitional provisions), after paragraph (13), insert paragraph (13A)—

"(13A) When the Primary Care Trust notifies the ophthalmic medical practitioner or optician of its decision under paragraph (13), it shall also inform him that if he wishes to exercise a right of appeal he must do so within the period of 28 days beginning with the date on which it gave him the notice informing him of its decision, and shall tell him how to exercise any such right.**"**.

Amendment of the Sight Testing Regulations

5. In regulation 4 of the Sight Testing (Examination and Prescription) (No.2) Regulations 1989(**c**) (exceptions to the duty to issue a prescription or statement)—

(a) at the end of paragraph (b), omit "or"; and

(b) after paragraph (c), insert—

"; or

(**a**) S.I. 2005/480.
(**b**) Section 13G was inserted by S.I. 2005/848.
(**c**) S.I. 1989/1230. The Regulations were made under the Opticians Act 1958 (c.32), but have effect under the Opticians Act 1989 by virtue of the Interpretation Act 1978 (c.30), section 17(2)(b); regulation 4 was amended by S.I. 2005/848.

(d) the patient is being fitted with contact lenses as part of the medical or clinical treatment provided for an eye condition.".

Rosie Winterton
Minister of State (Health),
Department of Health

6th June 2005

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are largely consequential on the amendment of the Opticians Act 1989 ("the Act") by the Opticians Act 1989 (Amendment) Order 2005 ("the Order").

Regulation 2 sets out the particulars which must be given by a registered medical practitioner, when he issues a specification to a patient to whom he has fitted a contact lens.

Regulations 3 and 4 amend the National Health Service (General Ophthalmic Services) Regulations 1986 ("the 1986 Regulations") and the National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services Amendment and Consequential Amendment) Regulations 2005 ("the 2005 Regulations") respectively so as to make minor consequential changes following the amendment of the Act by the Order. Regulations 3 and 4 also make other minor amendments not consequential on the Order to the 1986 Regulations and the 2005 Regulations.

Regulation 5 amends the Sight Testing (Examination and Prescription) (No. 2) Regulations 1989 so as to add a further exception to the duty to issue a prescription or statement when a patient is being fitted with contact lenses .

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