STATUTORY INSTRUMENTS

1974 No. 507 (S.42)

NATIONAL HEALTH SERVICE, SCOTLAND

The National Health Service (General Ophthalmic Services) (Scotland) Regulations 1974

Made - - - -	19*th March* 1974
Laid before Parliament	29*th March* 1974
Coming into Operation	1*st April* 1974

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In exercise of the powers conferred on me by the provisions set out in column 1 of Schedule 2 to these regulations as amended by the provisions set out in column 2 of the said Schedule and of all other powers enabling me in that behalf, I hereby make the following regulations:—

PART I

GENERAL

Citation and commencement

1. These Regulations may be cited as the National Health Service (General Ophthalmic Services) (Scotland) Regulations 1974 and shall come into operation on 1st April 1974.

Interpretation

2. (1) In these regulations, unless the context otherwise requires

"the Act" means the National Health Service (Scotland) Act, 1947(a);

"the Act of 1972" means the National Health Service (Scotland) Act, 1972(b);

(a) 1947 c. 27. (b) 1972 c. 58.

" area medical committee " means the committee of that name for the area of a Health Board recognised under section 16 of the Act of 1972 ;

" area optical committee " means the committee of that name for the area of a Health Board recognised under section 16 of the Act of 1972 ;

" Board " means a Health Board constituted for any area under section 13 of the Act of 1972 and " constituent Board " means one of the Health Boards for whose areas a Joint Ophthalmic Committee has been established ;

" Committee " means a Joint Ophthalmic Committee, constituted in accordance with the Order of 1974 ;

" contractor " means any person or body corporate whose name is included in the ophthalmic list ;

" deputy " means an ophthalmic medical practitioner or optician providing general ophthalmic services on behalf of a contractor otherwise than as a director or salaried employee of that contractor notwithstanding that such deputy may also be a contractor ;

" dispensing optician " has the same meaning as in section 80(1) of the Act as substituted by section 20 of the Health Services and Public Health Act 1968(**a**) ;

" doctor " means a fully registered medical practitioner ;

" enactment " includes a provision in a statutory instrument ;

" the Health Service Acts " means the National Health Service (Scotland) Acts 1947 to 1973(**b**) ;

" Joint area optical committee " means the committee of that name for the area of a Joint Ophthalmic Committee recognised by the Secretary of State under section 16 of the Act of 1972, as applied by the Order of 1974 ;

" ophthalmic medical practitioner " means a doctor whose qualifications have been approved as being prescribed qualifications in accordance with Part II of these regulations ;

" ophthalmic optician " has the same meaning as in section 80(1) of the Act of 1947 as substituted by section 20 of the Health Services and Public Health Act 1968 ;

" Ophthalmic Qualifications Committee " means such committee appointed by organisations representative of the medical profession as may be recognised by the Secretary of State for the purpose of approving ophthalmic hospitals, ophthalmic departments of hospitals, academic degrees, academic or post graduate courses in ophthalmology and appointments according special opportunities for acquiring the necessary skill and experience of the kind required for the provision of general ophthalmic services and for the purpose of approving the qualifications and experience of doctors for the purpose of the general ophthalmic services ;

" optical appliance " means an appliance designed to correct, remedy or relieve a defect of sight ;

" optician " means an ophthalmic optician or a dispensing optician ;

" the Order of 1974 " means the National Health Service (Joint Ophthalmic Committees) (Scotland) Order 1974(**c**) ;

(**a**) 1968 c. 46. (**b**) 1973 c. 32. (**c**) S.I. 1974/503 (1974 I, p. 1788).

" patient " means any person for whom a contractor has agreed to provide general ophthalmic services ;

" replacement " means the provision of the whole or part of an optical appliance in place of the whole or part as the case may require, of an optical appliance containing lenses conforming to the same prescription which has been lost, destroyed or damaged (otherwise than by fair wear or tear) ;

" sight test " includes such examination of the eyes as may be required ;

" supply " means the provision of the whole or part of an appliance otherwise than as a replacement ;

" the Statement " means the Statement prepared pursuant to the provisions of regulation 10 ;

" terms of service " means the terms of service set out in Schedule 1 to these regulations ;

" Tribunal " means the Tribunal constituted in accordance with the provisions of section 43 of the Act ;

and any other expression to which a meaning is assigned by the Health Service Acts has that meaning in these regulations.

(2) Unless the context otherwise requires, references in these regulations to any enactment shall be construed as references to that enactment as amended or re-enacted by any subsequent enactment.

(3) References in any other regulations to the regulations revoked by these regulations or to any provision thereof shall be construed as references to these regulations or to the corresponding provision thereof, as the case may require.

(4) Unless the context otherwise requires, any reference in these regulations to a numbered regulation is a reference to the regulation bearing that number in these regulations, and any reference in a regulation to a numbered paragraph is a reference to the paragraph bearing that number in that regulation.

(5) Any reference in these regulations to the appropriate forms included in the Statement shall include a reference to a form substantially to the like effect.

(6) The Interpretation Act 1889(**a**) shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament.

PART II

QUALIFICATIONS OF OPHTHALMIC MEDICAL PRACTITIONERS

Qualifications

3. (1) The prescribed qualifications for the purposes of section 42 of the Act shall be to have had at the date of consideration recent experience and either—

(*a*) (i) to have held an appointment in the health service otherwise than under Part IV of the Act with the status of consultant ophthalmologist, or an appointment for a period of not less than two years of equivalent status as ophthalmic surgeon or assistant ophthalmic surgeon on the staff of an approved ophthalmic hospital or of an approved ophthalmic department of a hospital; and

(a) 1889 c. 63.

(ii) to have had adequate experience ; or

(*b*) (i) to have held an ophthalmic appointment or appointment in an approved ophthalmic hospital or an approved ophthalmic department of a hospital, for a period totalling not less than two years, including therein tenure for a period of not less than six months of a residential appointment or an appointment with duties comparable with those of a residential appointment (provided that such tenure for six months of a residential or comparable appointment shall not be required in the case of a doctor who has been fully registered for at least seven years and whose experience is such as to make that requirement unnecessary) ; and

(ii) to have obtained the Diploma in Ophthalmology awarded conjointly by the Royal College of Physicians of London and the Royal College of Surgeons of England, or any approved higher degree or qualification ; and

(iii) to have had adequate experience ;

(*c*) to have before 1st November 1951 had adequate experience and either—

(i) obtained a Diploma or Certificate in respect of an approved academic or post graduate course in ophthalmology ; or

(ii) held for a period of not less than two years an appointment as an ophthalmic surgeon or assistant ophthalmic surgeon on the staff of an approved ophthalmic hospital or an approved ophthalmic department of a hospital ; or

(iii) held for a period of not less than two years an approved appointment affording special opportunities for acquiring the necessary skill and experience of the kind required for the provision of general ophthalmic services.

(2) " Approved " for the purposes of this regulation means approved by the Ophthalmic Qualifications Committee.

Approval of qualifications

4.—(1) A doctor who wishes to establish his status as an ophthalmic medical practitioner shall apply to the Ophthalmic Qualifications Committee for approval of his qualifications and experience, and shall give to that Committee such particulars of his qualification and experience as that Committee shall require.

(2) The Ophthalmic Qualifications Committee shall consider such application and within one month after the date thereof shall inform the applicant of their decision, and if they approve the qualifications and experience of that applicant he shall be an ophthalmic medical practitioner.

(3) Notwithstanding the provisions of regulation 3 and of paragraph (1) above a doctor who has the prescribed qualifications for the purposes of providing general ophthalmic services in England and Wales under the National Health Service Act 1946(**a**) or in Northern Ireland under the Health and Personal Social Services (Northern Ireland) Order 1972(**b**), shall be an ophthalmic medical practitioner.

Appeals against decisions of Ophthalmic Qualifications Committee

5.—(1) Any person aggrieved by a decision of the Ophthalmic Qualifications Committee that he is not qualified to be an ophthalmic medical

(**a**) 1946 c. 81. (**b**) S.I. 1972/1265 (N.I. 14).

practitioner may, within one month from the date on which he received notice of that decision or such longer period as the Secretary of State may at any time allow, appeal against the decision by sending to the Secretary of State a notice of appeal stating the facts and contentions on which he relies.

(2) The Secretary of State shall appoint to determine the appeal an appeal committee of five persons of whom at least three shall be appointed after consultation with such bodies or organisations representing doctors as appear to him to be concerned and shall refer the appeal to that appeal committee.

(3) The Secretary of State shall send a copy of the notice of appeal to the Ophthalmic Qualifications Committee and to such other persons as may appear to him to be interested in the appeal and shall inform the appellant, the Committee and any such other persons of such reference and of the address to which communications to the appeal committee shall be sent.

(4) The appeal committee may and if required so to do by the appellant or the Ophthalmic Qualifications Committee shall hold a hearing in connection with an appeal at such time and place as they may direct, and notice of such hearing shall not less than 14 days before the date of the hearing be sent by the recorded delivery service to the appellant, the Ophthalmic Qualifications Committee and any other person to whom the Secretary of State has under paragraph (3) sent notice of the appeal.

(5) Either the appellant or the Ophthalmic Qualifications Committee may within one month of being informed that the appeal has been referred to an appeal committee, or of being informed that a hearing of such appeal will be held, give notice that he or they desire to appear before the appeal committee.

(6) The Ophthalmic Qualifications Committee shall be entitled to appear by a member or by their clerk or other officer duly appointed for the purpose ; the appellant shall be entitled to appear in person, by any member of his family, by any friend, or by any officer or member of any organisation of which he is a member ; and any party to an appeal shall be entitled to appear and be heard by counsel or solicitor.

(7) Subject to the foregoing provisions of this regulation the procedure of the appeal committee in determining the appeal shall be such as the appeal committee think proper.

(8) An appeal committee shall have all the powers of the Ophthalmic Qualifications Committee including in particular the power of approval and, if satisfied that an appellant is qualified to provide general ophthalmic services, they shall so determine and accordingly he shall be an ophthalmic medical practitioner.

(9) The appeal committee shall as soon as practicable notify their determination to the appellant, the Ophthalmic Qualifications Committee, the Secretary of State and any other person to whom the Secretary of State has under paragraph (3) of this regulation sent notice of the appeal.

PART III

OPHTHALMIC LIST

Ophthalmic list

6.—(1) The Committee shall prepare a list to be called " the ophthalmic list " of those persons or bodies corporate who pursuant to the provisions of regulation 7 are entitled to be included therein.

(2) The ophthalmic list shall be divided into three parts, of which the first part shall relate to ophthalmic medical practitioners, the second part to ophthalmic opticians and the third part to dispensing opticians.

(3) Each part shall contain—

(*a*) the names of the persons and bodies corporate who are entitled to be included therein ;

(*b*) the address of any place in the Committee's area at which they have undertaken to provide general ophthalmic services ;

(*c*) particulars of the days on which and hours between which general ophthalmic services will normally be available at such addresses ; and

(*d*) the name of each ophthalmic medical practitioner or optician who is regularly engaged as a deputy director or employee in the provision of general ophthalmic services at such address.

(4) The Committee shall send a copy of the ophthalmic list to the Secretary of State, to the constituent Boards, to the Area Medical Committees as appropriate, to the Area Optical Committees for the constituent Boards and to the Joint Area Optical Committee, and shall within fourteen days inform each of them of any change made therein.

Application for inclusion in ophthalmic list

7.—(1) An ophthalmic medical practitioner or optician who wishes to be included in the ophthalmic list of a Committee shall send to that Committee an application to that effect, in such form as may be included in the Statement.

(2) A contractor whose name is included in the ophthalmic list shall within 14 days of any change or addition affecting the entries which that list is required to contain in relation to him notify the Committee accordingly.

Withdrawal from ophthalmic list

8. A contractor who is included in the ophthalmic list shall be entitled at any time to give notice in writing to the Committee that he desires to withdraw from the ophthalmic list, and his name shall be removed therefrom at the expiration of three months from the date of such notice or of such shorter period as the Committee may agree:

Provided that—

(*a*) if representations are made to the Tribunal under the provisions of section 43 of the Act that the continued inclusion of a contractor in the ophthalmic list would be prejudicial to the efficiency of the general ophthalmic services, he shall not, except with the consent of the Secretary of State and subject to such conditions if any as the Secretary of State may impose, be entitled to have his name removed from the ophthalmic list pending the determination of the proceedings on such representations ;

(*b*) the Committee shall not agree to any withdrawal unless and until they are satisfied that satisfactory arrangements have been made for the completion of any general opthalmic services which such contractor has undertaken to provide.

Removal from ophthalmic list

9.—(1) Where a Committee have determined that a contractor whose name has been included in the ophthalmic list—

(*a*) has died, or

(*b*) has ceased to be an ophthalmic medical practitioner or optician, they shall remove that contractor's name from the ophthalmic list.

(2) Where a Committee determine, in accordance with the provisions of this regulation, and after consultation with any appropriate Area Medical Committee in the case of an ophthalmic medical practitioner, or with any appropriate Area or Joint Area Optical Committee, in the case of an optician, that an ophthalmic medical practitioner or an optician whose name has been included for the preceding six months in the ophthalmic list of that Committee has not during that period provided general ophthalmic services for persons in the area, the Committee shall remove the name of the contractor from the ophthalmic list.

(3) Before making any determination under paragraph (2) the Committee shall give that contractor twenty-eight days notice of their intention so to do and shall afford him an opportunity of making representaions to the Committee in writing, or, if a contractor so desires, orally, and notice in writing of his right to make representations shall be sent to the contractor by post at his usual or last known address at least twenty-eight days prior to any determination under this regulation.

(4) Nothing in this regulation shall prejudice the right of a person to have his name included again in the ophthalmic list.

(5) No determination under this regulation shall be made in respect of any contractor who is called into whole-time service in the armed forces of the Crown in a national emergency as a volunteer or otherwise, or compulsory whole-time service in those forces, including service resulting from any reserve liability or any equivalent service by a person liable for whole-time service in those forces, until six months after the completion of that service.

PART IV

GENERAL ARRANGEMENTS

The Statement

10.—(1) The Secretary of State shall after consultation with such organisations as he may recognise as representing contractors providing general ophthalmic services cause to be prepared a Statement which shall specify:—

(*a*) the fees payable for the testing of sight by ophthalmic medical practitioners and ophthalmic opticians and for the dispensing of optical appliances by opticians ;

(*b*) the types and quality of optical appliances which may be supplied as part of the general ophthalmic services ;

(*c*) the payments to be made to contractors in respect of the supply, replacement or repair of optical appliances ;

(*d*) in relation to frames " the current specified cost " as defined in the Schedule to the National Health Service Act, 1951(**a**) ;

(*e*) the standard types of children's frame for the purposes of the Schedule to the National Health Service Act, 1951 ;

(*f*) the charges to patients for the supply, replacement or repair of optical appliances ;

(*g*) the charges to patients for the provision of appliances of a more expensive type than the type normally supplied ; and

(a) 1951 c. 31.

(*h*) model forms for use in the provision of general ophthalmic services.

(2) The said Statement may be amended from time to time by the Secretary of State after consultation with the aforesaid organisations.

Terms of service

11. The arrangements for the provision of general ophthalmic services under section 42 of the Act which it is the duty of a Committee to make by virtue of the Order of 1974(**a**) shall incorporate the terms of service in Schedule 1 and the Statement.

Payment for services

12. The Committee shall make or cause to be made to contractors within their area payments in accordance with the Statement.

PART V

METHOD OF OBTAINING GENERAL OPHTHALMIC SERVICES

Sight tests

13.—(1) A person who wishes to have his sight tested under the general ophthalmic services may apply to any ophthalmic medical practitioner or ophthalmic optician whose name appears in an ophthalmic list.

(2) An ophthalmic medical practitioner or ophthalmic optician to whom an application for a sight test is made shall before making any examination of the patient's eyes complete or have completed by or on behalf of the patient the necessary details required on the appropriate form including the approximate date of the patient's last sight test, if any, and satisfy himself that a sight test is necessary.

Supply of appliances

14.—(1) A person to whom a prescription for an optical applicance has been issued on the appropriate form may, within twelve months after the date of that prescription, on presenting it to any optician whose name appears in an ophthalmic list, apply to him to supply an optical appliance in accordance with that prescription.

(2) A person may on applying to an optician to supply an optical appliance request that optician to supply an appliance of a more expensive type than the type normally supplied.

(3) The optician shall supply lenses as part of general ophthalmic services only when they are fitted to a surrounding protective frame, but nothing in these regulations shall prevent him from supplying the lenses fitted to such a frame supplied at the specific request of the applicant otherwise than as part of such services.

Replacement or repair

15.—(1) A person who requires under the general ophthalmic services the replacement or repair of the whole or part of any optical appliance supplied under the health service may apply to an optician whose name appears in any ophthalmic list.

(2) Before an optician accepts such an application and undertakes the replacement or repair he shall procure by or on behalf of the patient the completion of the relevant part of the appropriate form.

(**a**) S.I. 1974/503 (1974 I, p. 1788).

(3) The optician may on consideration of information so provided, require such an applicant to have his sight tested before undertaking such replacement or repair and shall require a sight test in the case of an applicant under 16 years of age whose sight was last tested more than 12 months before the date of the application.

PART VI

CHARGES

Charges for replacement or repair

16.—(1) Subject to the provisions of paragraphs (2) and (3) a patient shall be liable to pay for the replacement or repair under the general ophthalmic services of the whole or part of an optical appliance the charges specified in respect thereof in the Statement.

(2) (*a*) A patient may submit a claim to the Committee that such replacement or repair was not necessitated by any act or omission of his or (if it occurred when he was under 16 years of age) of his or of the person having charge of him when it occurred.

(*b*) The Committee shall consider such claim and any further particulars which the patient may at the Committee's request give orally or in writing, and shall notify in writing to the patient and the optician their decision on such claim.

(3) If it appears to the Committee that a payment by or on behalf of the patient would involve undue hardship, they may determine that the whole or any part of the said charges shall be payable by the Committee.

Charges for optical appliances of a more expensive type

17. Where an optician has agreed at the request of a patient to supply, as part of the general ophthalmic services the whole or part of any optical appliance of a more expensive type than the type normally supplied or to replace or repair the whole or part of such appliance, he may make and recover from such patient a charge not exceeding such amount as is specified in respect thereof in the Statement:

Provided that, in the case of the replacement or repair of the whole or part of such appliance, if the Committee determine that in view of the circumstances of the patient a smaller amount should be payable by him, and give notice of their determination to the optician, the sum payable by that patient shall not exceed such smaller amount.

Exemptions

18. It shall be a condition of exemption under section 1(4) of the National Health Service Act 1961(**a**) from a charge payable under section 1 of the National Health Service Act 1951(**b**) in respect of the supply of lenses or of entitlement pursuant to the provisions of section 1 of and the Schedule to the said Act of 1951 to the supply of children's glasses, that—

(*a*) the date of birth of the patient is entered on the appropriate form by or on behalf of the patient;

(**a**) 1961 c. 19. (**b**) 1951 c. 31.

(*b*) where the age of such patient is 16 years or more, a certificate given on behalf of the education authority or on behalf of the headmaster or proprietor of a school, is submitted to the optician supplying the optical appliance at the same time as the appropriate form is presented certifying that the patient for whom the lenses or the children's glasses are to be supplied was at the relevant time receiving full-time instruction in a school within the meaning of the Education (Scotland) Act 1962(**a**) or the Education Act, 1944(**b**) ; and

(*c*) the patient or person having charge of the patient shall produce such other evidence as the Committee may specify in support of a claim to such exemption or entitlement.

Recovery of charges

19.—(1) Where a charge may be made and recovered under or by virtue of the provisions of the Health Service Acts in respect of the provision of general ophthalmic services, the optician providing such services shall be entitled to make and recover such charge and the patient provided with such services shall be under a duty to pay such charge to such optician.

(2) Where an optician agrees to provide general ophthalmic services for a patient he may decline to commence or proceed with the provision of such services until the patient has either paid such charges or has paid such deposit on account thereof as the optician may require.

(3) An optician shall give to any patient paying such charges or a deposit on account thereof a receipt therefor on a form provided by the Committee for that purpose.

(4) Any sum payable or recoverable in respect of such charges may, without prejudice to any other method of recovery, be recoverable as a debt.

(5) Any charge required to be paid by a patient under this regulation in respect of a provision of general ophthalmic services shall be without prejudice to any other charge authorised by these regulations.

(6) Any sum which, but for this regulation, would have been payable by a Committee to an optician in respect of the provision of general ophthalmic services shall be reduced by the amount payable by the patient by virtue of this regulation.

PART VII

MISCELLANEOUS

Application on behalf of children or infirm persons

20. An application for general ophthalmic services or a signature required by these regulations may be made—

(*a*) on behalf of any person under 16 years of age by the mother, or in her absence the father or in the absence of both parents the guardian or other person who has the care of the child ;

(*b*) on behalf of any other person who is incapable of making such an application or signature by a relative or any person who has the care of such person ; and

(*c*) on behalf of any person under the age of 18 in the care of a local authority under Part II of the Social Work (Scotland) Act 1968(**c**) or

(**a**) 1962 c. 47. (**b**) 1944 c. 31. (**c**) 1968 c. 49.

under the relevant provisions of the said Part II as applied by section 44(5) of the said Act, by a person duly authorised by that authority:

Provided in each case that the application may not be made by the contractor to whom the application is made.

Publication of particulars

21. Copies of the ophthalmic list, these regulations, the terms of service, the Statement and any provisions relating to charges payable by patients shall be available for inspection at the offices of the Board and of the Committee and such other places in the area as appear to be convenient for informing all persons interested and shall be kept revised and up to date.

Service of documents

22. Except where otherwise provided, any document which is required or authorised under these regulations or the terms of service to be given to a contractor may be given by delivering it to such contractor or by sending it addressed to him at any address notified by him to the Committee for inclusion in the ophthalmic list as a place at which he has undertaken to provide general ophthalmic services.

Revocation of regulations and transitional provisions

23. The regulations named in Schedule 3 to these regulations are hereby revoked:

Provided that—

(*a*) such revocation shall not affect any right, privilege, obligation or liability acquired, accrued or incurred, or anything duly done or suffered under those regulations;

(*b*) such revocation shall not affect any legal proceedings commenced before the revocation, or the commencement of any proceedings to enforce any such right, privilege, obligation, or liability as aforesaid, but any such proceedings may be continued or commenced as if these regulations had not been made;

(*c*) such revocation shall not affect any acknowledgment, agreement, appeal, application, appointment, approval, arrangement, authority, condition, contract, decision, declaration, direction, determination, estimate, form, list, notice, prescription, requirement, Statement or tariff made, prepared, issued or given under the regulations so revoked, and every such acknowledgment, agreement, appeal, application, appointment, approval, arrangement, authority, condition, contract, decision, declaration, direction, determination, estimate, form, list, notice, prescription, requirement, Statement or tariff shall, so far as it could have been made, prepared, issued or given under these regulations, have effect as if it had been so made, prepared, issued or given.

(Sgd.) *William Ross,*
One of Her Majesty's
Principal Secretaries
of State.

St. Andrew's House,
Edinburgh.
19th March 1974.

SCHEDULE 1

PART I

TERMS OF SERVICE FOR OPHTHALMIC MEDICAL PRACTITIONERS AND OPTICIANS—GENERAL

Interpretation

1. In this Schedule, unless the context otherwise requires—

(*a*) the expression "the regulations" means the National Health Service (General Ophthalmic Services) (Scotland) Regulations 1974;

(*b*) any reference to a numbered regulation is a reference to the regulation bearing that number in the regulations;

(*c*) any reference to a numbered paragraph is a reference to the paragraph bearing that number in this Schedule, and any reference in a paragraph to a numbered sub-paragraph is a reference to the sub-paragraph bearing that number in that paragraph;

(*d*) other words and expressions have the same meaning as in the regulations.

Incorporation of provisions

2. Any provisions of the following affecting the rights and obligations of ophthalmic medical practitioners and opticians shall be deemed to form part of the terms of service—

(*a*) the regulations;

(*b*) so much of Part III of the National Health Service (Service Committees and Tribunal) (Scotland) Regulations 1974(**a**) as relates to—

(i) the investigation of questions arising between ophthalmic medical practitioners and opticians and their patients, other investigations to be made by the ophthalmic service committee and the action which may be taken by the Committee as a result of such investigations, including the withholding of remuneration from an ophthalmic medical practitioner or optician where there has been a breach of the terms of service;

(ii) appeals to the Secretary of State from decisions of the Committee;

(iii) the investigation of excessive prescribing of optical appliances;

(*c*) the Statement.

PART II

ADDITIONAL TERMS OF SERVICE FOR OPHTHALMIC MEDICAL PRACTITIONERS

Premises and equipment

1.—(1) An ophthalmic medical practitioner shall provide proper and sufficient consulting and waiting room accommodation and suitable equipment for the testing of sight.

(2) An ophthalmic medical practitioner on receipt of a written request shall admit any medical practitioner being an authorised officer of the Secretary of State or any authorised member or officer of the Committee at all reasonable times to any consulting or waiting room under the control of the ophthalmic medical practitioner for the purpose of inspecting the said accommodation or equipment.

Arrangement for the provision of services

2.—(1) An ophthalmic medical practitioner shall make all necessary arrangements for the testing of sight of his patients.

(**a**) S.I. 1974/504 (1974 I, p. 1793).

(2) The testing of sight shall be carried out by an ophthalmic medical practitioner personally, except where he is prevented by reason of other professional duties, temporary absences from home or other reasonable cause, in which case he may employ a deputy who is an ophthalmic medical practitioner.

(3) An ophthalmic medical pracititioner shall not employ as a deputy any practitioner who is disqualified under Section 43 of the Act for inclusion in the ophthalmic list of any Committee.

(4) An ophthalmic medical practitioner whose name is included in an ophthalmic list, acting as deputy to another ophthalmic medical practitioner whose name is also included in that list, shall be responsible for his own acts and omissions in relation to the obligations under these terms of service of the ophthalmic medical practitioner for whom he acts as deputy.

Testing of sight

3.—(1) An ophthalmic medical practitioner shall, having accepted in accordance with the regulations an application for the testing of sight, make such examination of the patient's eyes as may be required and in so doing shall exercise proper care and attention.

(2) Where an ophthalmic medical practitioner is of the opinion that a patient whose sight he has tested—

(*a*) does not require an optical appliance ; or

(*b*) shows on examination any abnormality of the eyes or otherwise requires treatment outside the scope of the general ophthalmic services ; or

(*c*) is not likely to secure a satisfactory standard of vision notwithstanding the application of corrective lenses ; or

(*d*) should revisit him with a view to further examination within six months,

he shall so inform the patient's doctor.

(3) An ophthalmic medical practitioner who, after testing the sight of a patient, consulting his records if any relating to that patient, and making such inquiry of the patient as may be relevant, considers that the patient needs the supply of an optical appliance of a type which may be supplied under the general ophthalmic services, shall so inform the patient, and if the patient so desires shall issue to him on the appropriate form a prescription for the supply of the optical appliance needed.

(4) An ophthalmic medical practitioner who, after testing the sight of a patient, consulting his records if any relating to that patient, and making such inquiry of the patient as may be relevant, considers that the patient needs the replacement of the whole or part of an optical appliance shall so inform him.

Records

4. An ophthalmic medical practitioner shall keep a proper record in respect of each patient whose sight he tests under the general ophthalmic services giving details of the testing of sight and shall retain all such records for a period of three years. If required to do so he shall during that period produce such records to any medical practitioner being an authorised officer of the Secretary of State or to the Committee.

Payments

5.—(1) Any claim by an ophthalmic medical practitioner for fees or remuneration in respect of the provision of general ophthalmic services shall be made by completing or securing the completion as the case may require of the appropriate form and sending it to the Committee in whose area the services were provided within six months after the date of completion of such provision.

(2) Any such claim shall be signed in ink by the ophthalmic medical practitioner with his initials or forenames and with his surname in his own handwriting and not by means of a stamp.

(3) Except as provided in the regulations or in the Statement an ophthalmic medical practitioner shall not demand or accept from any patient or from other persons the payment of any fee or remuneration in respect of the provision of general ophthalmic services:

Provided that an ophthalmic medical practitioner shall be entitled to demand and recover from a patient or person having charge of a patient a sum in respect of loss of remunerative time resulting from a failure by that patient to keep an appointment or in respect of a journey made at the request of a patient or such person to the patient's residence.

PART III

ADDITIONAL TERMS OF SERVICE FOR OPHTHALMIC OPTICIANS

Premises and equipment

1.—(1) An ophthalmic optician shall provide proper and sufficient consulting and waiting room accommodation and suitable equipment for testing sight and supplying and repairing optical appliances.

(2) An ophthalmic optician on receipt of a written request shall admit an authorised officer of the Secretary of State or any authorised member or officer of the Committee at all reasonable times to any consulting or waiting room under the control of the optician for the purpose of inspecting the said accommodation and equipment.

Arrangements for the provision of services

2.—(1) An ophthalmic optician shall make all necessary arrangements for the provision of general ophthalmic services to patients.

(2) Where the name of a person or body corporate is included in the ophthalmic list as an optician in addition to the name of any employee, the person or body corporate shall be jointly responsible with such employee for any general ophthalmic services provided by the employee.

(3) An ophthalmic optician shall be rseponsible for all acts and omissions of an employee whose name is not included in the ophthalmic list.

(4) In this paragraph " an employee " includes, in the case of a body corporate, a director.

(5) An ophthalmic optician for the purpose of testing sight shall employ only a person who is an ophthalmic optician, except that he may permit any part of the test to be performed under his continuous personal supervision by a person authorised to test sight by rules made under section 20(3) of the Opticians Act 1958(**a**).

(6) An ophthalmic optician shall not without the consent of the Secretary of State cause or permit to provide or take part in the provision of general ophthalmic services any person who is disqualified under section 43 of the Act for inclusion in the ophthalmic list of any Committee.

Testing of sight

3.—(1) An ophthalmic optician shall having accepted in accordance with the regulations an application for the testing of sight make such examination of the patient's eyes as may be required and in so doing shall exercise proper care and attention.

(2) Where an ophthalmic optician is of the opinion that a patient whose sight he has tested—

(*a*) does not require an optical appliance; or

(*b*) shows on examination any abnormality of the eyes or otherwise requires treatment outside the scope of the general ophthalmic services; or

(**a**) 1958 c. 32.

(*c*) is not likely to secure a satisfactory standard of vision notwithstanding the application of corrective lenses ; or

(*d*) should revisit him with a view to further examination within six months,

he shall so inform the patient's doctor.

(3) An ophthalmic optician who, after testing the sight of a patient, consulting his records if any relating to that patient, and making such enquiry of the patient as may be relevant, considers that the patient needs the supply of an optical appliance of a type which may be supplied under the general ophthalmic services, shall so inform the patient, and if the patient so desires shall issue to him on the appropriate form a prescription for the supply of the optical appliance needed.

(4) An ophthalmic optician who, after testing the sight of a patient, consulting his records if any relating to that patient, and making such enquiry of the patient as may be relevant, considers that the patient needs the replacement of the whole or part of an optical appliance shall so inform him.

Supply, replacement or repair of appliances

4.—(1) An opthalmic optician shall before accepting a prescription for the supply of an optical appliance under the general ophthalmic services, satisfy himself that less than 12 months have elapsed since the date of the issue of that prescription.

(2) If the optician is so satisfied and accepts the prescription for dispensing he shall supply an optical appliance in accordance therewith and in doing so shall exercise proper care and attention and proceed with reasonable expedition.

(3) All optical appliances supplied, replaced or repaired by or through an ophthalmic optician under the general ophthalmic services shall conform to the types and quality set out in the Statement.

(4) The ophthalmic optician shall not give, promise or offer any gift or reward (whether by way of a share of, or a dividend on, the profits of the business or by way of discount or rebate or otherwise) as an inducement to any person to apply, or in consideration of any person applying, for general ophthalmic services.

Records

5. An ophthalmic optician shall keep a proper record in respect of each patient to whom he provides general ophthalmic services giving details of the testing of sight or the supply or repair of optical appliances as the case may require and shall retain all such records for a period of three years. If required to do so he shall, during that period, produce such records to an authorised officer of the Secretary of State or to the Committee.

Payments

6.—(1) Any claim by an ophthalmic optician for fees or remuneration in respect of the provision of general ophthalmic services shall be made by completing or securing the completion as the case may require of the appropriate form and sending it to the Committee in whose area the services were provided within six months after the date of completion of such provision.

(2) Any such claim shall be signed in ink by the ophthalmic optician with his initials or forenames and with his surname in his own handwriting and not by means of a stamp:

Provided that—

(*a*) in the case of a body corporate, the claim shall be so signed by any director or employee thereof being an optician who takes part in the provision of general ophthalmic services at the address at which the relevant service was provided ;

(*b*) in any other case, where the service was provided on his behalf by a deputy or employee who is also an optician, the claim shall be so signed by the deputy or employee and he shall give the name of the ophthalmic optician on whose behalf the service was provided.

(3) Except as provided in the regulations or in the Statement an ophthalmic optician shall not demand or accept from any patient or from other persons the payment of any fee or remuneration in respect of the provision of general ophthalmic services:

Provided that an ophthalmic optician shall be entitled to demand and recover from a patient or person having charge of a patient a sum in respect of loss of remunerative time resulting from a failure by that patient to keep an appointment or in respect of a journey made at the request of a patient or such person to the patient's residence.

Advertising

7.—(1) Except as provided in sub-paragraph (2) an ophthalmic optician shall not advertise either directly or by implication that his name is included in an ophthalmic list or that he provides or is authorised to provide general ophthalmic services.

(2) Nothing in this paragraph shall prohibit the display at any premises at which the optician provides general opthalmic services of a notice in a form included in the Statement.

Inability to complete treatment

8. Where a contractor is unable to complete for a patient the general ophthalmic services which he has undertaken to provide, he shall inform the Committee accordingly in writing, and if the Committee is satisfied that such inability is due to a reasonable cause, he shall be entitled to such payment as may be approved by the Committee.

Use of disqualified name

9. An ophthalmic optician shall not use in any manner whatsoever the name or part of the name, either alone or in combination with any other words or letters, of, or used by, any other person or body corporate so long as that person or body corporate is disqualified under Section 43 of the Act from inclusion in any ophthalmic list so however that nothing in this paragraph shall prevent an ophthalmic optician being a person from using his own name, or being a body corporate, from using the name by which it is enrolled in the register maintained pursuant to the provisions of the Opticians Act 1958.

PART IV

ADDITIONAL TERMS OF SERVICE FOR DISPENSING OPTICIANS

Premises and equipment

1.—(1) A dispensing optician shall provide proper and sufficient accommodation and suitable equipment for the supplying and repairing of optical appliances.

(2) A dispensing optician on receipt of a written request shall admit an authorised officer of the Secretary of State or any authorised member or officer of the Committee at all reasonable times to any such accommodation under the control of the dispensing optician for the purposes of inspecting the said accommodation and equipment.

Arrangements for the provision of services

2.—(1) A dispensing optician shall make all necessary arrangements for the fitting and supply of optical appliances to persons to whom he has undertaken to provide such services.

(2) Where the name of a person, or body corporate is included in the ophthalmic list as a dispensing optician in addition to the name of any employee, the person or body corporate shall be jointly responsible with any such employee for any general ophthalmic services provided by the employee.

(3) A dispensing optician shall not without the consent of the Secretary of State employ for the purposes of general ophthalmic services any person who is disqualified for inclusion under Section 43 of the Act in the ophthalmic list of any Committee.

(4) A dispensing optician is responsible for all acts and omissions of an employee whose name is not included in the ophthalmic list.

(5) In this paragraph an employee in the case of a body corporate includes a director.

Supply, replacement or repair of appliances

3.—(1) A dispensing optician shall before accepting a prescription for the supply of an optical appliance under the general ophthalmic services satisfy himself that less than twelve months have elapsed since the date of the issue of that prescription.

(2) If a dispensing optician is so satisfied and accepts the prescription for dispensing he shall supply an optical appliance in accordance therewith and in doing so shall exercise proper care and attention and proceed with reasonable expedition.

(3) All optical appliances supplied, replaced or repaired by or through a dispensing optician under the general ophthalmic services shall conform to the types and quality set out in the Statement.

(4) The dispensing optician shall not give, promise or offer any gift or reward (whether by way of a share of, or a dividend on, the profits of the business or by way of discount or rebate or otherwise) as an inducement to any person to apply, or in consideration of any person applying, for general ophthalmic services.

Records

4. A dispensing optician shall keep a proper record in respect of each patient to whom he provides general ophthalmic services giving details of the supply or repair of optical appliances and shall retain all such records for a period of three years. If required to do so he shall, during that period, produce such records to an authorised officer of the Secretary of State or to the Committee.

Payments

5.—(1) Any claim by a dispensing optician for fees or remuneration in respect of the provision of general ophthalmic services shall be made by completing or securing the completion as the case may require of the appropriate form and sending it to the Committee in whose area the services were provided within six months after the date of completion of such provision.

(2) Any such claim shall be signed in ink by the dispensing optician with his initials or forenames and with his surname in his own handwriting and not by means of a stamp:

Provided that—

(*a*) in the case of a body corporate, the claim shall be so signed by any director or employee thereof being an optician who takes part in the provision of general ophthalmic services at the address at which the relevant service was provided ;

(*b*) in any other case, where the service was provided on his behalf by a deputy or employee who is also an optician, the claim shall be so signed by the deputy or employee and he shall give the name of the contractor on whose behalf the service was provided.

(3) Except as provided in the regulations or in the Statement a dispensing optician shall not demand or accept from any patient or from other persons the payment of any fee or remuneration in respect of the provision of general ophthalmic services:

Provided that a dispensing optician shall be entitled to demand and recover from a patient or person having charge of a patient a sum in respect of loss of remunerative time resulting from a failure by that patient to keep an appointment or in respect of a journey made at the request of a patient or such person to the patient's residence.

Advertising

6.—(1) Except as provided in sub-paragraph (2) a dispensing optician shall not advertise either directly or by implication that his name is included in an ophthalmic list, or that he provides or is authorised to provide general ophthalmic services.

(2) Nothing in this paragraph shall prohibit the display at any premises at which the optician provides general ophthalmic services of a notice in a form included in the Statement.

Inability to complete treatment

7. Where a dispensing optician is unable to complete for a patient the general ophthalmic services which he has undertaken to provide, he shall inform the Committee accordingly in writing, and if the Committee is satisfied that such inability is due to a reasonable cause he shall be entitled to such payment as may be approved by the Committee.

Use of disqualified name

8. A dispensing optician shall not use in any manner whatsoever the name or part of the name, either alone or in combination with any other words or letters, of, or used by, any other person or body corporate so long as that person or body corporate is disqualified under Section 43 of the Act from inclusion in any ophthalmic list so however that nothing in this paragraph shall prevent a dispensing optician being a person from using his own name, or being a body corporate, from using the name by which it is enrolled in the register maintained pursuant to the provisions of the Opticians Act 1958.

SCHEDULE 2

PROVISIONS CONFERRING POWERS EXERCISED IN MAKING THESE REGULATIONS

Column 1 *Enactment conferring power*	*Column 2* *Relevant amending enactment*
The National Health Service (Scotland) Act 1947(a)—	
Section 42	The National Health Service (Amendment) Act 1949(b), sections 14(4) and 21. The Health Services and Public Health Act 1968(c), section 19 and Schedule 4. The National Health Service (Scotland) Act 1972(d), Schedule 6, Part I and Schedule 7.
Section 45	The Health Services and Public Health Act 1968, section 39.
Section 46	—
Section 72	The National Health Service (Scotland) Act 1972, Schedule 6, Part I.
The National Health Service Act 1951(e)—	
Section 1 and Schedule	The National Health Service Act 1961(f). The National Health Service (Scotland) Act 1972, Schedule 6, Part I. The National Health Service Re-organisation Act 1973(g), Schedule 4.
The National Health Service Act 1961—	
Section 1	The National Health Service (Scotland) Act 1972, Schedule 6, Part I.
Section 2	—
The Health Services and Public Health Act 1968—	
Section 29	The National Health Service (Scotland) Act 1972, Schedule 6, Part I and Schedule 7.
Section 38	—
The National Health Service (Scotland) Act 1972—	
Section 16	—

(a) 1947 c. 27. (b) 1949 c. 93. (c) 1968 c. 46. (d) 1972 c. 58.
(e) 1951 c. 31. (f) 1961 c. 19. (g) 1973 c. 32.

SCHEDULE 3

REGULATIONS REVOKED

Regulations Revoked	References	Extent of Revocation
The National Health Service (Supplementary Ophthalmic Services) (Scotland) Regulations 1948.	S.I. 1948/1450 (Rev. XV p. 955 1948 I, p. 2571)	The whole regulations.
The National Health Service (Supplementary Ophthalmic Services) (Scotland) Amendment Regulations 1950.	S.I. 1950/1603 (1950 I, p. 1559) ...	The whole regulations.
The National Health Service (General Dental and Supplementary Ophthalmic Services) (Scotland) Regulations 1951.	S.I. 1951/861 (1951 I, p. 1412) ...	The whole regulations.
The National Health Service (Supplementary Ophthalmic Services) (Scotland) Amendment Regulations 1956.	S.I. 1956/41 (1956 I, p. 1612) ...	The whole regulations.
The National Health Service (Qualifications for Supplementary Ophthalmic Services) (Scotland) Regulations 1958.	S.I. 1958/2048 (1958 II, p. 1562) ...	The whole regulations.
The National Health Service (Supplementary Ophthalmic Services) (Scotland) Amendment Regulations 1961.	S.I. 1961/915 (1961 II, p. 1761) ...	The whole regulations.
The National Health Service (Qualifications for Supplementary Ophthalmic Services) (Scotland) Amendment Regulations 1961.	S.I. 1961/973 (1961 II, p. 1896) ...	The whole regulations.
The National Health Service (Charges for Appliances) (Scotland) Regulations 1969.	S.I. 1969/918 (1969 II, p. 2797) ...	Regulation 6.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations consolidate with amendments the National Health Service (Supplementary Ophthalmic Services) (Scotland) Regulations 1948 as amended, and the National Health Service (Qualifications for Supplementary Ophthalmic Services) (Scotland) Regulations 1958 as amended. The principal amendments are those required as a consequence of the National Health Service (Scotland) Act 1972. Provision is also made under section 38 of the Health Services and Public Health Act 1968, now brought into operation, for an appeal against a decision of the Ophthalmic Qualifications Committee. Other modifications consist mainly of amendments in the order of presentation and minor drafting amendments in the interests of clarity.

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