STATUTORY INSTRUMENTS

1972 No. 828 (S.60)

NATIONAL HEALTH SERVICE, SCOTLAND

The National Health Service (Joint Ophthalmic Services Committees) (Scotland) Regulations 1972

Made - - - -	*24th May* 1972
Laid before Parliament	*6th June* 1972
Coming into Operation	*1st July* 1972

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SCHEDULES

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In exercise of the powers conferred on me by section 42(2) and (2A) of the National Health Service (Scotland) Act 1947**(a)** substituted by section 19(2) of the Health Services and Public Health Act 1968**(b)**, and of all other powers enabling me in that behalf, and after consultation with the Council on Tribunals, I hereby make the following regulations:—

PART I

GENERAL

Citation and commencement

1. These regulations may be cited as the National Health Service (Joint Ophthalmic Services Committees) (Scotland) Regulations 1972 and shall come into operation on 1st July 1972.

Interpretation

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

"the Act of 1947" means the National Health Service (Scotland) Act 1947 as amended;

"medical practitioner" means a registered medical practitioner;

"ophthalmic medical practitioner" means a medical practitioner having the qualifications prescribed by regulation 3 of the National Health Service (Qualifications for Supplementary Ophthalmic Services) (Scotland) Regulations 1958**(c)** as amended**(d)**;

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

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

(2) The Interpretation Act 1889**(e)** shall apply for the interpretation of these regulations as it applies for the interpretation of an Act of Parliament and as if the regulations revoked by these regulations were Acts of Parliament repealed by an Act of Parliament.

PART II

ESTABLISHMENT AND CONSTITUTION OF JOINT OPHTHALMIC SERVICES COMMITTEES

Establishment of Committees

3.—(1) There shall be established a Joint Ophthalmic Services Committee (in these regulations referred to as "the Committee") with the title set out in the first column of the First Schedule to these regulations, for each of the groups of Executive Council areas set out in the second column of the said schedule.

(a) 1947 c. 27. **(b)** 1968 c. 46. **(c)** S.I. 1958/2048 (1958 II, p. 1562).
(d) The relevant amending instrument is S.I. 1961/973 (1961 II, p. 1896).
(e) 1889 c. 63.

(2) The several Executive Councils (in these regulations referred to as "constituent Councils") shall delegate to the Committee the duty of making arrangements for the testing of sight and for the supply of optical appliances.

Membership of Committees

4.—(1) Subject as hereinafter provided, each Committee shall consist of members appointed as follows:—

(*a*) Each of the constituent Councils shall appoint the number of members set out in the third column of the First Schedule to these regulations from among their members other than medical practitioners and opticians.

(*b*) Such organisations as the Secretary of State may recognise as representative of the groups to which the persons concerned belong shall appoint respectively:—

(i) one medical practitioner, not being an ophthalmic medical practitioner, from among the members of the constituent Councils, being members appointed by Local Medical Committees;

(ii) three ophthalmic medical practitioners;

(iii) three ophthalmic opticians; and

(iv) one dispensing optician:

Provided that in the case of the Western Joint Ophthalmic Services Committee the said organisations shall appoint respectively:—

(i) one medical practitioner, not being an ophthalmic medical practitioner, from among the members of the constituent Councils, being members appointed by Local Medical Committees;

(ii) five ophthalmic medical practitioners;

(iii) five ophthalmic opticians; and

(iv) one dispensing optician.

(2) The Committee shall appoint a member to be Chairman.

(3) A member of a Joint Ophthalmic Services Committee for a group of areas under article 4(1)(*a*) or article 4(1)(*b*) of the National Health Service (Joint Ophthalmic Services Committees) (Scotland) Order 1948**(a)** as amended **(b)** shall as from the date of commencement of these regulations be deemed to have been appointed under regulation 4(1)(*a*) or regulation 4(1)(*b*) of these regulations to the Joint Ophthalmic Services Committee for the same group of areas established under these regulations.

Vacancies

5.—(1) A casual vacancy in the Committee shall be filled by the appropriate body in accordance with the provisions of regulation 4 and any person appointed to fill a casual vacancy shall hold office for the remainder of the term of office, as determined under regulation 8, of the person in whose place he is appointed.

(2) A body appointing a person to fill a vacancy shall notify the clerk of the Committee of the name and address of the person appointed.

(3) The proceedings of the Committee shall not be invalidated by any vacancy in the membership of the Committee or by any defect in the appointment or qualification of any member thereon.

(a) S.I. 1948/1452 (Rev. XV p. 977: 1948 I, p. 2425).

(b) The relevant amending instrument is S.I. 1951/353 (1951 I, p. 1423).

Officers

6. The constituent Councils shall make available to the Committee the services of their clerks and of such other officers as may be necessary for the purposes of the Committee.

Office accommodation

7. The constituent Councils shall make available to the Committtee such office accommodation as may be necessary for the purposes of the Committee.

Term of office

8.—(1) Subject as hereinafter provided, the term of office of members of a Committee shall be three years, one-third of the members, as near as may be, retiring on 31st March each year:

Provided that at the expiration of his term of office a member shall be eligible for re-appointment.

(2) A member of the Committee appointed under regulation 4(1)(*a*) shall be deemed to have retired from the Committee on ceasing to be a member of the Executive Council.

(3) The term of office of a member of the Committee to whom the provisions of regulation 4(3) apply shall expire on the date of expiration of the period for which he was appointed under the National Health Service (Joint Ophthalmic Services Committees) (Scotland) Order 1948 as amended.

Sub-committees and other matters

9.—(1) Regulations 5, 7, 9, 10, 12, 13, 14 of the National Health Service (Executive Councils) (Scotland) Regulations 1954**(a)** shall apply *mutatis mutandis* to the Committee with the substitution where appropriate of the Committee for the Council.

(2) The Committee may appoint such sub-committees as they deem fit, which shall consist wholly or partly of members of the Committee as the Committee may determine, provided that a majority of the members of any such sub-committee shall be members of the Committee.

Expenses of Committee

10. Expenditure incurred by a Joint Ophthalmic Services Committee in respect of administrative expenses and of travelling and subsistence allowances and compensation for loss of remunerative time by members shall be defrayed by the constituent Councils, and all such expenses shall be apportioned among the said constituent Councils on such basis as the Secretary of State may determine.

PART III

PROVISIONS RELATING TO INVESTIGATIONS, DISPUTES, APPEALS, ETC.

Interpretation

11. In this part of these regulations, unless the context otherwise requires:—

"appropriate Council" means the Executive Council for the area in which the premises of the ophthalmic medical practitioner or optician who is concerned in an investigation are situated;

(a) S.I. 1954/461 (1954 I, p. 1370).

"appropriate Committee" or "main Committee" means the Joint Ophthalmic Services Committee established for the group of areas in which the said area is included;

"the terms of service" means the terms of service for ophthalmic medical practitioners contained in Part I of the First Schedule to the National Health Service (Supplementary Ophthalmic Services) (Scotland) Regulations 1948**(a)** as amended **(b)** or the terms of service for ophthalmic opticians contained in Part II or the terms of service for dispensing opticians contained in Part III of the said schedule;

"ophthalmic list" means a list of ophthalmic medical practitioners, ophthalmic opticians and dispensing opticians prepared by a Joint Ophthalmic Services Committee under regulation 5 of the National Health Service (Supplementary Ophthalmic Services) (Scotland) Regulations 1948 as amended;

"the Tribunal" means the Tribunal constituted under section 43 of the Act of 1947.

Constitution of ophthalmic investigation committees

12.—(1) Every Joint Ophthalmic Services Committee shall establish an ophthalmic investigation committee and may, with the consent of the Secretary of State, establish two or more ophthalmic investigation committees.

(2)(*a*) An ophthalmic investigation committee shall consist of a chairman and, in addition, three members of the main Committee appointed under regulation 4(1)(*a*) and three members appointed under regulation 4(1)(*b*) of whom one member shall be an ophthalmic medical practitioner, one member an ophthalmic optician and one member a dispensing optician.

(*b*) A corresponding number of persons shall be appointed in the like manner to act as deputies for the members (other than the chairman) of any ophthalmic investigation committee and in the absence of a member a deputy appointed in the like manner shall be entitled to act in his place.

(3) The following provisions shall have effect with regard to the appointment of the chairman and deputy chairman of an ophthalmic investigation committee:—

(*a*) The chairman shall be appointed at a meeting of the members of the ophthalmic investigation committee specially summoned for that purpose. The Chairman of the main Committee or, if he is a member of the ophthalmic investigation committee or is unable to attend, the vice-chairman or some other member of the main Committee (not being a member of the ophthalmic investigation committee) to be nominated by the Chairman (or in his absence the vice-chairman) shall preside at the meeting but shall not be entitled to vote. The appointment shall be made by a majority of the votes cast at the meeting.

(*b*) The persons eligible for appointment shall be members of the main Committee appointed under regulation 4(1)(*a*) and any person appointed as a chairman by the main Committee under the following provisions of this paragraph whose term of office has expired.

(*c*) If no appointment is made at the said meeting the main Committee shall appoint a person to be chairman.

(a) S.I. 1948/1450 (Rev. XV, p. 955; 1948 I, p. 2571).

(b) The relevant amending instruments are S.I. 1950/1603, 1956/41, 1961/973 (1950 I, p. 1559; 1956 I, p. 1612; 1961 II, p. 1896).

(*d*) Where an appointment of the chairman falls to be made by the main Committee a person who is not a member of the main Committee shall be eligible for appointment, provided that he is neither a medical practitioner nor an optician, and any such person so appointed shall be entitled to attend and take part in the proceedings of the main Committee but not to vote.

(*e*) The foregoing provisions with respect to the appointment of a chairman shall apply to the appointment of a deputy chairman.

(*f*) If the person appointed as chairman or deputy chairman of an ophthalmic investigation committee is already a member of such a committee he shall thereupon cease to be a member otherwise than as chairman or deputy chairman and a new member shall be appointed to take his place.

(4) Prior to the commencement of a hearing before the ophthalmic investigation committee the chairman shall ask the members thereof whether any of them has a personal interest, either directly or indirectly, in a question coming before the committee. If in the opinion of the chairman any member is so interested that member shall take no part in the hearing of the question but a deputy appointed in the same manner may act in his place.

(5)(*a*) The chairman shall have a casting vote in the case of an equality of votes but otherwise he shall not be entitled to vote.

(*b*) If the chairman is absent the deputy chairman shall exercise and perform the powers and duties of the chairman; on all other occasions the deputy chairman shall be entitled to be present at and take part in the proceedings but shall not vote.

(6) Subject as hereinafter provided, the main Committee may make standing orders with respect to the term of office of the chairman, deputy chairman, members and deputy members of the ophthalmic investigation committee:

Provided that the term of office of the chairman shall not exceed one year but that at the expiration of such term of office he shall be eligible for re-appointment.

Investigation by ophthalmic investigation committees

13.—(1) Subject as hereinafter provided, any complaint made by a person against an ophthalmic medical practitioner or optician in respect of an alleged failure to comply with the terms of service shall be investigated by the ophthalmic investigation committee.

(2)(*a*) Any person desiring to make a complaint under this regulation against an ophthalmic medical practitioner or an optician shall within six weeks after the event which gave rise to the complaint give written notice to the clerk of the appropriate Committee or to the clerk of the Executive Council for the area in which that person is resident stating the substance of the matter which it is desired to have investigated.

(*b*) Notwithstanding failure to give notice within the period specified in the preceding sub-paragraph the ophthalmic investigation committee may investigate the matter if they are satisfied that such failure was occasioned by illness or other reasonable cause and either:

(i) the complaint is made within two months after the said event; or

(ii) the ophthalmic medical practitioner or optician, as the case may be, consents to the investigation taking place notwithstanding the failure to give notice in time; or

(iii) the consent of the Secretary of State to the investigation has been obtained. In applying for such consent the ophthalmic investigation committee shall furnish the Secretary of State and the ophthalmic medical practitioner or optician, as the case may be, with a copy of the said notice, a statement of the reasons for the failure to give notice in time and any further information which the Secretary of State may require; and the ophthalmic medical practitioner or optician, as the case may be, shall be entitled within fourteen days after the receipt by him of such statement or further information to forward to the Secretary of State a statement of the grounds on which he contends that the investigation should not take place.

(3) Subject as hereinafter provided, the ophthalmic investigation committee shall investigate any matters referred to them by the main Committee or by any Executive Council (or any committee of the Council duly authorised in that behalf by the Council) relating to the administration of general ophthalmic services whether or not any such matter has been raised on a complaint under the foregoing provisions of this regulation:

Provided that no question which involves an allegation against an ophthalmic medical practitioner or optician of a breach of his terms of service shall, except with the consent of the Secretary of State or of the ophthalmic medical practitioner or optician concerned, be referred for investigation under this paragraph, except within the period specified in sub-paragraph (*a*) of the last preceding paragraph and the provisions of sub-paragraph (*b*) of the last preceding paragraph with reference to the procedure to be adopted on application for the consent of the Secretary of State shall *mutatis mutandis* apply to any application for his consent under this paragraph.

(4) Where a complaint or a matter referred to the ophthalmic investigation committee involves a question relating to an ophthalmic medical practitioner and a dispensing optician, or to an ophthalmic optician and a dispensing optician, or to an ophthalmic medical practitioner and an ophthalmic optician, the ophthalmic investigation committee shall, if the practitioner and optician or opticians concerned so agree, investigate the matter in relation to both persons at the same time.

Procedure at investigations

14.—(1) A party to an investigation may be assisted in the presentation of his case by some other person:

Provided that no person shall be entitled in the capacity of counsel, solicitor or other paid advocate to conduct the case for any party by addressing the committee or examining or cross-examining witnesses.

(2) The proceedings at the hearing before the ophthalmic investigation committee shall be private and no person shall be admitted to those proceedings except:—

(*a*) the parties to the investigation and any persons assisting them;

(*b*) the secretary or other officer of a Local Medical Committee or of a Local Optical Committee;

(*c*) persons attending for the purpose of giving evidence who shall, unless the ophthalmic investigation committee otherwise direct, be excluded from the hearing except when they are actually giving evidence;

(*d*) such officers of the main Committee or of any Executive Council concerned as may be appointed for the purpose; and

(*e*) any member of the Council on Tribunals or of the Scottish Committee thereof.

(3) The Second Schedule to these regulations shall apply with respect to the investigation of complaints and the procedure of the ophthalmic investigation committee.

(4) The ophthalmic investigation committee shall draw up a report stating such relevant facts as appear to them to be established by the evidence placed before them and the inferences which in their opinion may properly be drawn from the facts, together with a recommendation as to the action, if any, which should be taken, and shall present the report to the main Committee and the main Committee shall accept as conclusive any finding of fact contained in the report. In presenting such report to the main Committee the ophthalmic investigation committee may, in cases where they infer a breach of the terms of service, draw the attention of the main Committee to any previous reports made by them or by a Joint Ophthalmic Services Committee established under the National Health Service (Joint Ophthalmic Services Committees) (Scotland) Order 1948 as amended, in which the ophthalmic medical practitioner or optician was found to be in breach of his terms of service, and to any action taken by the Secretary of State on such reports and may recommend that account should be taken thereof by the main Committee in reaching their decision.

(5) Notwithstanding anything herein contained an ophthalmic investigation committee may, where a hearing is required and where, in consequence of difficulties of securing the attendance of witnesses owing to distance or inadequacy of means of communication or other special circumstances, they are of the opinion that such hearing should be held at a place outwith the town in which meetings of the committee are ordinarily held, delegate three of their number to take the hearing and to draw up a report stating such relevant facts as appear to them to be established by the evidence placed before them and the inferences which in their opinion may properly be drawn from the facts; and of the three persons to whom this duty is so delegated one shall be the chairman or the deputy chairman, one shall be a member of the ophthalmic investigation committee who is not a medical practitioner, ophthalmic medical practitioner or optician, and, if the person against whom the allegation has been made is an ophthalmic medical practitioner, one shall be a member of the ophthalmic investigation committee who is an ophthalmic medical practitioner but, if the person against whom the allegation has been made is an optician, one shall be a member of the ophthalmic investigation committee who is an optician:

Provided that instead of delegating as aforesaid the ophthalmic investigation committee may, if owing to special circumstances they consider such a course to be justified and subject to the consent of the Secretary of State, delegate to their chairman or deputy chairman to take the hearing and to draw up the report.

(6) On such report being presented to the ophthalmic investigation committee they shall accept as conclusive any findings of fact and shall otherwise deal with the case as if they themselves had conducted the hearing.

(7) The provision of regulation 14(4) shall apply with the necessary modifications to enable the ophthalmic investigation committee to delegate to the chairman or the deputy chairman or others to take the evidence of one or more witnesses who for medical or other sufficient reasons cannot attend a hearing and whose evidence the ophthalmic investigation committee consider essential.

Action by the main Committee

15. The main Committee shall furnish the Secretary of State and the appropriate Council with a copy of the report of the ophthalmic investigation committee

and a statement of the main Committee's decision thereon, which may include action in any one or more of the following ways:—

(*a*) The main Committee may make a recommendation to the appropriate Council to recover from the ophthalmic medical practitioner or optician, as the case may be, by deduction from his remuneration or otherwise, any expenses (other than expenses incurred in connection with an investigation by the ophthalmic investigation committee) which have been reasonably and necessarily incurred by any person owing to the failure of the ophthalmic medical practitioner or optician to comply with the terms of service and the Council shall give effect to such recommendation and any sum so recovered shall be paid to that person.

(*b*) The main Committee may make representations to the Secretary of State that owing to the failure of the ophthalmic medical practitioner or optician to comply with the terms of service an amount should be withheld from his remuneration.

(*c*) If the main Committee are of the opinion that the continued inclusion of the ophthalmic medical practitioner or optician in the ophthalmic list of the Committee would be prejudicial to the efficiency of the service in question they may make representation to that effect to the Tribunal.

Appeal to Secretary of State

16.—(1) The main Committee shall furnish the parties to an investigation with a copy of the ophthalmic investigation committee's report and of the Committee's decision and shall inform them of their right to appeal to the Secretary of State in terms of this regulation and of the power of the Secretary of State on such an appeal to award expenses.

(2) Any party aggrieved by such decision shall be entitled to appeal to the Secretary of State by sending to him notice of appeal within one month from the date on which notification of the decision was received:

Provided that no appeal shall lie against a decision to take action under paragraph (*c*) of the last preceding regulation.

(3) The appellant shall furnish within such period as the Secretary of State may allow a concise statement of the facts and contentions upon which the appellant intends to rely.

(4) The Secretary of State may, on the application of any person desiring to appeal, extend the time for giving notice of appeal and may do so although the application is not made until after the expiration of one month from the date on which notice of the main Committee's decision was received.

(5) An application for an extension of the time for giving notice of appeal must be made in writing to the Secretary of State stating the grounds for the application.

Representation by main Committee to Tribunal

17. If a main Committee decide to make a representation with regard to the continued inclusion in an ophthalmic list of the name of any ophthalmic medical practitioner or optician and an appeal to the Secretary of State is made against their decision on other matters, the Secretary of State may treat as conclusive for the purpose of the appeal any relevant findings of the Tribunal.

Procedure on appeal

18.—(1) If the Secretary of State, after considering the notice of appeal and the statement of facts and contentions furnished by the appellant, is of the opinion that the said notice and statement disclose no reasonable ground of appeal or that the appeal is otherwise vexatious or frivolous, he may dismiss the appeal forthwith and inform the parties giving his reasons for this decision:

Provided that an appeal against a decision of the main Committee to take action under paragraphs (*a*) or (*b*) of regulation 15 shall not be dismissed without a hearing unless the appellant does not desire such a hearing.

(2) The Secretary of State shall, unless he dismisses the appeal on the ground aforesaid, send a copy of the notice of appeal furnished by the appellant under paragraph (3) of regulation 16 to the main Committee and to the person or persons, if any, who were parties to the proceedings before the ophthalmic investigation committee and who appear to him to be interested in the appeal and, in the event of a hearing, the main Committee and any such person or persons may appear and take such part in the proceedings as the persons holding the hearing think proper. The main Committee shall be entitled to submit a statement to the Secretary of State in answer to the notice of appeal and the statement furnished by the appellant and the Secretary of State shall send to the appellant a copy of any statement so submitted.

(3) Subject to the proviso to paragraph (1) of this regulation, the Secretary of State may, if he is of opinion that the case is of such a nature that it can properly be determined without a hearing, dispense with a hearing and determine the appeal summarily and inform the parties of his decision and of his reasons for this decision which shall be final and conclusive.

(4) If the Secretary of State decides that the appeal shall be heard he shall fix a time and place for the hearing and shall give not less than fourteen days' notice thereof to the appellant, the main Committee and any other parties who may be concerned.

(5) For the purpose of a hearing the Secretary of State shall appoint a person or persons, not exceeding three in number, and whether officers of the Secretary of State or not, to hold the hearing and report to him and he shall also appoint a fit person to act as clerk:

Provided that, where one of the parties to an appeal is an ophthalmic medical practitioner, an ophthalmic optician or a dispensing optician, the persons appointed to hear the appeal shall include an ophthalmic medical practitioner, an ophthalmic optician or a dispensing optician, as the case may be, selected by the Secretary of State from the appropriate panel of practitioners nominated by organisations which are in his opinion representative of the appropriate profession.

(6) The Secretary of State, after taking into consideration the report of the person or persons who have heard the appeal, shall give his decision informing the parties of his reasons therefor and his decision shall be final and conclusive.

(7) At any hearing—

(*a*) A party to the appeal shall be entitled to appear and be heard in person or by counsel or solicitor, or by any officer or member of any organisation of which he is a member, or by any member of his family, or by any friend;

(*b*) A main Committee or other body being a party to the appeal shall be entitled to appear and be heard by a member or by their clerk or other officer duly appointed for the purpose, or by counsel or solicitor; and

(*c*) Any member of the Council on Tribunals or of the Scottish Committee thereof shall be entitled to attend.

(8) A party to any appeal shall not, except with the consent of the Secretary of State or, in the case of a hearing, of the person or persons before whom the hearing takes place, be entitled to rely upon any facts or contentions which do not appear to the Secretary of State or to the person or persons holding the hearing to have been raised before the ophthalmic investigation committee in the course of the proceedings in respect of which the appeal is brought:

Provided that this paragraph shall not apply in the case of a hearing if at least seven days before the hearing notice is given in writing to the Secretary of State or to the person or persons holding the hearing of any new facts or contentions upon which the party intends to rely.

(9) The appropriate Committee may with the consent of the Secretary of State make such contributions as they think fit and shall if directed by the Secretary of State make such contribution as he may determine towards the cost of the appeal incurred by the complainer or by the ophthalmic medical practitioner or optician.

Provisions as to hearing

19. The provisions of the Tenth Schedule to the Act of 1947 (which relate to the attendance of witnesses, orders as to expenses and other matters) shall apply to any hearing held under the last foregoing regulation as they apply to an inquiry held under the Act with the omission of paragraphs 1, 2 and 6 of the said schedule.

Procedure on withholding money

20. If the Secretary of State is satisfied, after considering any report made by an ophthalmic investigation committee under paragraph (4) of regulation 14 of these regulations and the decision thereon of the Committee, or the report of a person or persons appointed under paragraph (5) of regulation 18 of these regulations, or any report of the Tribunal after an inquiry under the National Health Service (Tribunal for General Ophthalmic Services) (Scotland) Regulations 1972**(a)** that an ophthalmic medical practitioner or optician has failed or neglected to comply with the terms of service applicable to him he shall inform the Committee of his decision and may direct the appropriate Council to recover such amount as he thinks fit, either by deduction from the remuneration of the ophthalmic medical practitioner or optician or otherwise; and such sum shall be a debt due by the ophthalmic medical practitioner or optician to the Council:

Provided that, except in cases in which the facts have already been the subject of an investigation in the course of an appeal made to the Secretary of State, the Secretary of State shall, before directing that any such amount shall be withheld, afford the ophthalmic medical practitioner or optician concerned a reasonable opportunity of making representations to him on the matter.

(a) S.I. 1972/827 (1972 II, p. 2659).

Investigation of excessive prescribing of glasses

21.—(1) The appropriate Committee shall from time to time examine the Forms No 1 prescribed in the Third Schedule to the National Health Service (Supplementary Ophthalmic Services) (Scotland) Regulations 1948 as amended which have been completed by an ophthalmic medical practitioner or an ophthalmic optician after testing the sight of persons applying for general ophthalmic services, and where it appears to the Committee that, by reason of the number of glasses and type of lenses prescribed in relation to the number of sight tests undertaken and to the degree of refractive error detected, the cost incurred is materially in excess of what was reasonably necessary for the adequate treatment of those persons, they shall prepare a report thereon stating fully the facts of the case as ascertained by them, the grounds upon which their opinion is based and their decision, which may include a requirement that a sum should be recovered from the ophthalmic medical practitioner or the ophthalmic optician as the case may be:

Provided that before making the report the Committee shall furnish the ophthalmic medical practitioner or the ophthalmic optician concerned with a statement indicating the grounds on which an investigation has appeared necessary and shall afford him reasonable opportunity of appearing before and being heard by them or, if he thinks fit, of submitting to them any statement in writing.

(2) The Committee shall send to the Secretary of State copies of every report made by them under this regulation.

(3) The Committee shall inform the appropriate Council and the ophthalmic medical practitioner or ophthalmic optician, as the case may be, of any decision made by them and the ophthalmic medical practitioner or ophthalmic optician shall be entitled to appeal against the decision of the Committee to the Secretary of State and the foregoing provisions of these regulations relating to the procedure on appeal from a decision of the Committee made under regulation 15 and to the hearing and expenses of the appeal shall apply.

(4) If the Secretary of State is not satisfied that the obligations laid on the Committee by this regulation have been adequately fulfilled, he may appoint a person or persons, not exceeding two in number, for the purpose of holding an investigation under this regulation, and the person or persons so appointed shall have the same powers and duties in respect of the investigation into the number of glasses and type of lenses prescribed in relation to the number of sight tests undertaken and to the degree of refractive error detected as are conferred and imposed on the Committee, and shall be entitled to require the Committee to furnish any relevant statistics or other information available.

(5) Any report made by the person or persons so appointed shall be made to the Secretary of State, and if he is of the opinon that, by reason of the number of glasses and type of lenses prescribed in relation to the number of sight tests undertaken and to the degree of refractive error detected, the cost incurred is materially in excess of what was reasonably necessary for the adequate treatment of persons whose sight was tested, he may direct that such sum as he thinks fit shall be recovered from the ophthalmic medical practitioner or ophthalmic optician, as the case may be, by the appropriate Council and the decision of the Secretary of State shall be final.

(6) Where the decision of the Committee includes a requirement or where the decision of the Secretary of State, either on appeal or under the last preceding paragraph, contains a direction that a sum should be recovered from an

ophthalmic medical practitioner or ophthalmic optician, as the case may be, the appropriate Council shall recover such sum whether by deduction from his remuneration or otherwise; and such sum shall be a debt due by the ophthalmic medical practitioner or ophthalmic optician to the appropriate Council.

Revocation

22. The National Health Service (Joint Ophthalmic Services Committees) (Scotland) Order 1948(a), the National Health Service (Joint Ophthalmic Services Committees) (Scotland) Amendment Order 1951(b), the National Health Service (Joint Ophthalmic Services Committees) (Scotland) Amendment (No. 2) Order 1951(c), and the National Health Service (Joint Ophthalmic Services Committees) (Scotland) Amendment Order 1964(d) are hereby revoked:

Provided that:—

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

(*b*) such revocations 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 appeal, appointment, application, consent, decision, determination, investigation, nomination, notice, proceedings, reference, report, representation, requirement, selection or standing order made, commenced, prepared, issued or given under the regulations so revoked and every such appeal, appointment, application, consent, decision, determination, investigation, nomination, notice, proceedings, reference, report, representation, requirement, selection, or standing order shall, so far as it could have been made, commenced, prepared, issued or given under these regulations, have effect as if it had been so made, commenced, prepared, issued or given.

Gordon Campbell,
One of Her Majesty's Principal Secretaries of State.

St Andrew's House,
Edinburgh.

24th May 1972.

(a) S.I. 1948/1452 (Rev. XV, p. 977: 1948 I, p. 2425).
(b) S.I. 1951/165 (1951 I, p. 1420).
(c) S.I. 1951/353 (1951 I, p. 1423).
(d) S.I. 1964/22 (1964 I, p. 17).

FIRST SCHEDULE

Column 1 Title of Joint Ophthalmic Services Committee	*Column* 2 Groups of areas of Executive Councils	*Column* 3 Number of members to be appointed from each Executive Council
Northern Joint Ophthalmic Services Committee	County of Caithness	1
	County of Inverness	3
	County of Ross and Cromarty	3
	County of Sutherland	1
North Eastern Joint Ophthalmic Services Committee	County of the City of Aberdeen	2
	Counties of Aberdeen and Kincardine	2
	Counties of Banff, Moray and Nairn	2
	County of Orkney	1
	County of Zetland	1
Eastern Joint Ophthalmic Services Committee	County of the City of Dundee	3
	County of Angus	2
	Counties of Perth and Kinross	3
South Eastern Joint Ophthalmic Services Committee	County of the City of Edinburgh	3
	County of Fife	2
	Counties of Midlothian, West Lothian, East Lothian and Peebles	2
	Counties of Roxburgh, Berwick and Selkirk	1
Western Joint Ophthalmic Services Committee	County of the City of Glasgow	3
	Counties of Argyll and Bute	1
	County of Ayr	1
	County of Dumfries	1
	County of Dunbarton	1
	Counties of Kirkcudbright and Wigtown	1
	County of Lanark	2
	County of Renfrew	1
	Counties of Stirling and Clackmannan	1

SECOND SCHEDULE

Rules of procedure under regulation 14

1.—(1) Where under the provisions of these regulations any question or matter is required to be investigated by an ophthalmic investigation committee, the following procedure shall be adopted:—

(*a*) The clerk of the main Committee shall, as soon as practicable, send to the chairman of the investigation committee and to the practitioner or optician concerned a copy of the complainer's statement and any ensuing correspondence on the matter.

(*b*) If in the opinion of the chairman the statement made by the complainer discloses no *prima facie* ground of complaint or is frivolous or vexatious, the clerk of the main Committee shall so inform the complainer and shall invite

him within fourteen days to submit a further statement. If no further statement is submitted by the complainer within that period or if the statement so submitted does not in the opinion of the chairman render a hearing of the case necessary, the case shall be brought before the ophthalmic investigation committee which shall have power to dispense with a hearing and to report on the matter forthwith.

(*c*) Except in cases dealt with under sub-paragraph (*b*) without a hearing the clerk shall give to both parties and to the secretary of the Local Medical Committee or to the secretary of the Local Optical Committee, as the case may be, not less than fourteen days' notice of the meeting at which the case will be heard.

(*d*) The chairman may upon the application of either party postpone the hearing if he is satisfied that the attendance of the party or any witness on the date fixed for the hearing is not reasonably practicable. He may also postpone the hearing if for any other reason he thinks fit.

(*e*) The clerk of the main Committee shall three clear days before the hearing supply to each member of the investigation committee copies of the statement and the reply, if any, thereto and of any further correspondence relating to the matter which has taken place between the clerk and either party.

(*f*) Either party shall be entitled to be present at the hearing and to give and call such evidence as the committee may think relevant to the matters at issue and may put questions relevant to the matter in dispute to the other party or to any witness called by him either directly or, if the committee so direct, through the chairman of the committee. Subject as aforesaid, the procedure at the hearing shall be such as the committee may determine.

(*g*) If either party fails to appear at the hearing and the investigation committee are satisfied that his absence is due to illness or other reasonable cause or if for any reason the committee think fit, they may adjourn the hearing.

(*h*) If in the course of a hearing the complainer introduces any issue which in the opinion of the chairman was not sufficiently disclosed in the written statement or statements sent to the respondent, it shall be within the discretion of the chairman to admit or exclude such issue as he thinks fit but if the issue is admitted the hearing will be adjourned if the respondent desires an opportunity of producing further evidence and requests an adjournment for that purpose.

(*i*) The chairman together with one lay member and one professional member shall form a quorum.

(2) Where a case has been opened before any committee and the meeting is adjourned for the purpose of hearing further evidence or of preparing or considering the report, a member of the committee who was not present at the meeting shall not be entitled to be present or take part in the proceedings at the adjourned meeting and it shall not be necessary for the clerk to send him notice of such meeting.

(3) The foregoing provisions of this Schedule shall apply to cases which are referred to an ophthalmic investigation committee by the main Committee, by any Executive Council, or by any other committee with such modifications as the circumstances may require.

2. In these rules, unless the context otherwise requires:

"chairman" includes a deputy chairman acting in his place;

"member" includes a deputy member acting in the place of a member;

"lay member" means a member, not being a medical practitioner or an ophthalmic medical practitioner or an optician, appointed to the committee by and from the members of an Executive Council who were appointed by the local health authority or the Secretary of State;

"professional member" means

(i) if the respondent is an ophthalmic medical practitioner, a member who is an ophthalmic medical practitioner.

(ii) if the respondent is an ophthalmic optician, a member who is an ophthalmic optician.

(iii) if the respondent is a dispensing optician, a member who is a dispensing optician.

EXPLANATORY NOTE

(*This Note is not part of the Regulations.*)

These Regulations provide for the establishment of Joint Ophthalmic Services Committees for groups of Executive Council areas, for their constitution and conduct of business and for the investigation by them of complaints against ophthalmic medical practitioners or opticians in respect of alleged failure to comply with the appropriate terms of service and of excessive prescribing of glasses.

SI 1972/828(
ISBN 0-11-020828-5

