EXPLANATORY MEMORANDUM TO

THE NATIONAL HEALTH SERVICE (OPTICAL CHARGES AND PAYMENTS) REGULATIONS

2013 No. 1856

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

2. Purpose of the instrument

2.1 This instrument amends the National Health Service (Optical Charges and Payments) Regulations 2013 (SI 2013 No 461) ("the 2013 Regulations") to make a consequential amendment as a result of the abolition of certain bodies and the creation of the National Health Service Commissioning Board by the Health and Social Care Act 2012. This consequential amendment was omitted from the 2013 Regulations and this instrument corrects that omission.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 The 2013 Regulations provide for payments to be made to help with the cost of sight tests and optical appliances for certain categories of person. Assistance is given by way of a voucher system, with ophthalmic practitioners or suppliers of optical appliances being able to redeem a voucher in full or part payment of the cost of a sight test or the cost of supplying, repairing or replacing an optical appliance.

4.2 Vouchers were previously redeemed by Primary Care Trusts. The Health and Social Care Act 2012 ("the 2012 Act") abolished Primary Care Trusts with effect from 31st March 2013 and provided for functions in relation to ophthalmic services to transfer to the National Health Service Commissioning Board ("the Board") created under the 2012 Act.

5. Territorial Extent and Application

5.1 This instrument applies to England.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- What is being done and why

7.1 This instrument amends the 2013 Regulations to make a consequential amendment. This consequential amendment was mistakenly omitted from the 2013 Regulations.

7.2 Regulation 24 of the 2013 Regulations provides that a person who is eligible for a voucher but who nevertheless pays for the supply, replacement or repair of an optical appliance, may claim a refund. Where the person is eligible on income grounds, regulation 24(2)(a) currently requires a claim to be made to the Secretary of State. However, the enabling power, section 180(1) and (3)(b) of the National Health Service Act 2006, was amended by the 2012 Act so that the Board now has the function of making payments in respect of the cost of optical appliances. These regulations amend regulation 24 to remove reference to claims being made to the Secretary of State and instead substitute a requirement for claims to be made to the Board. (Claims for repayment where eligibility is on grounds other than income are already made to the Board under regulation 24(2)(b)).

- Consolidation

7.3 Consolidation of amendment regulations will be considered in future.

8. Consultation outcome

8.1 The Department of Health has consulted the Optometric Fees Negotiating Committee (which brings together the Association of Optometrists, the Federation of Ophthalmic and Dispensing Opticians, the Association of British Dispensing Opticians and the British Medical Association Ophthalmic Group) and the NHS Commissioning Board.

8.2 Consultees were all content with the proposed consequential amendment which will bring the regulations in line with the primary legislation.

9. Guidance

9.1 As the amendment is consequential on the Health and Social Care Act 2012, the Department of Health does not propose to issue guidance on the impact of these regulations.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no negative impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument. The amendment is being made as a consequence of changes made by the Health and Social Care Act 2012 for which a full impact assessment was undertaken.

10.4 Consideration has been given to whether any further impact assessment was required but this was not considered to be necessary.

11. Regulating small business

11.1 There are no impacts on regulating small businesses by the amendment being made by these regulations.

12. Monitoring & review

12.1 Administration of the optical voucher system is now the responsibility of the NHS Commissioning Board, however the Secretary of State will retain responsibility for regulations and for the consolidation of those regulations and for uprating of optical voucher values.

13. Contact

Derek Busby at the Department of Health Tel: 020 7972 5656 or email: Derek.busby@dh.gsi.gov.uk can answer queries regarding the instrument.