STATUTORY INSTRUMENTS

2008 No. 1187

NATIONAL HEALTH SERVICE, ENGLAND

The National Health Service (Performers Lists) Amendment and Transitional Provisions Regulations 2008

Made - - - -	*28th April 2008*
Laid before Parliament	*6th May 2008*
Coming into force - -	*1st August 2008*

The Secretary of State for Health makes the following Regulations in exercise of the powers conferred by sections 28X and 126(4) of the National Health Service Act 1977(**a**):—

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Performers Lists) Amendment and Transitional Provisions Regulations 2008 and shall come into force on 1st August 2008.

(2) These Regulations apply to England.

(3) In these Regulations "the principal Regulations" means the National Health Service (Performers Lists) Regulations 2004(**b**).

Amendment of regulation 2 of the principal Regulations

2. In regulation 2 of the principal Regulations (interpretation and modification)—

(a) in the definition of "list", after "a dental list,", insert "an ophthalmic list,";

(b) for the definition of "relevant performers list" substitute—

""relevant performers list" means—

(a) in the case of a medical practitioner, the medical performers list;

(b) in the case of a dentist, the dental performers list; and

(c) in the case of an ophthalmic practitioner, the ophthalmic performers list;";

(c) for the definition of "relevant Part" substitute—

(**a**) 1977 c.49 ("the 1977 Act"); see section 128(1) as amended by the National Health Service and Community Care Act 1990 (c.19) ("the 1990 Act"), section 26(2)(g) and (i), for the definitions of "prescribed" and "regulations". Section 28X was inserted by the Health and Community Care (Community Health and Standards) Act 2003 (c.43) ("the 2003 Act"), section 179(1) and amended by section 39 of the Health Act 2006 (c. 28) ("the 2006 Act"). Section 126(4) was amended by the 1990 Act, s. 65(2); by the Health Act 1999 (c.8) ("the 1999 Act"), Schedule 4, paragraph 37(6) and by the Health and Social Care Act 2001 (c.15) ("the 2001 Act"), Schedule 5, paragraph 5(13)(b). As regards Wales, the functions of the Secretary of State under sections 29 and 126(4) of the 1977 Act are transferred to the National Assembly for Wales under article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672; section 68 of the 2001 Act provides that Schedule 1 shall be construed so as to include the amendments made by that Act to the 1977 Act; these Regulations therefore extend only to England.

(**b**) S.I. 2004/585; amended by S.I. 2004/2694, 2005/502, 893 and 3491 and 2006/385, 1914 and 3185.

""relevant Part" means—

(a) in the case of a medical practitioner, Part 2;

(b) in the case of a dentist, Part 3; and

(c) in the case of an ophthalmic practitioner, Part 4;"; and

(d) insert the following definitions at the appropriate alphabetical places—

""the 2008 Regulations" means the National Health Service (Performers Lists) Amendment and Transitional Provisions Regulations 2008(**a**); and

"ophthalmic performers list," means the list prepared by a Primary Care Trust and published pursuant to regulation 3(1)(c);".

Amendment of regulation 3 of the principal Regulations

3. For regulation 3(1) of the principal Regulations (performers lists) substitute—

"(1) A Primary Care Trust shall prepare and publish, in accordance with this Part, as modified or supplemented by the relevant Part—

(a) a medical performers list;

(b) a dental performers list; and

(c) an ophthalmic performers list.".

Amendment of regulation 9 of the principal Regulations

4. In regulation 9(5) of the principal Regulations (requirements with which a performer in a performers list must comply), for "the Schedule to the Amendment Regulations" substitute "the Schedules to the Amendment Regulations or the 2008 Regulations".

Insertion of Part 4 to the principal Regulations

5. After Part 3 of the principal Regulations insert—

"PART 4

OPHTHALMIC PERFORMERS LISTS

Interpretation

34.—(1) For the purposes of this Part the prescribed description of performer is an optometrist or an OMP and the relevant body is—

(a) in relation to an optometrist, the General Optical Council; and

(b) in relation to an OMP, the General Medical Council.

(2) In this Part—

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

(a) ophthalmic hospitals, academic degrees, academic or post graduate courses in ophthalmology and appointments affording special opportunities for acquiring the necessary skill and experience of the kind required for the provision of primary ophthalmic services; and

(b) the qualifications of doctors for the purpose of primary ophthalmic services;

(**a**) S.I. 2008/1187.

"contractor" means an ophthalmic practitioner, who both provides primary ophthalmic services under a general ophthalmic services contract under section 117 of the National Health Service Act 2006 (general ophthalmic services contracts)(**a**) and performs such services;

"OMP" means a registered medical practitioner, who has been recognised as an ophthalmic medical practitioner under regulations 36 and 37;

"ophthalmic hospital" includes an ophthalmic department of a hospital;

"ophthalmic list" means the list prepared by a Primary Care Trust under regulation 6 of the Ophthalmic Regulations;

"ophthalmic practitioner" means either—

(a) a registered optometrist, who is not a corporate body; or

(b) an OMP;

"the Ophthalmic Regulations" means the National Health Service (General Ophthalmic Services) Regulations 1996(**b**);

"ophthalmic supplementary list" means the list prepared by a Primary Care Trust under regulation 3(1) of the Ophthalmic Supplementary List Regulations;

"the Ophthalmic Supplementary List Regulations" means the National Health Service (General Ophthalmic Services Supplementary List) and (General Ophthalmic Services Amendment and Consequential Amendment) Regulations 2005(**c**);

"Opticians Act" means the Opticians Act 1989(**d**);

"professional registration number" means the number against the ophthalmic practitioner's name in the register;

"register" means—

(a) in the case of an optometrist, the register maintained by the General Optical Council under section 7(a) of the Opticians Act(**e**);

(b) in the case of an OMP, the register of medical practitioners;

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

"scheme" means an arrangement to provide primary ophthalmic services under a general ophthalmic services contract.

Ophthalmic performers list

35.—(1) An ophthalmic practitioner may not perform any primary ophthalmic services, unless his name is included in a ophthalmic performers list.

(2) In respect of any ophthalmic practitioner, whose name is included in an ophthalmic performers list, the list shall include—

(a) his full name;

(b) his professional registration number with—

(i) suffixed to it, the organisational code given by the Secretary of State to the Primary Care Trust,

(ii) prefixed to it, the initials OPL;

(c) his date of birth, where he consents, or where he does not consent, the date of his first registration in the register;

(**a**) 2006 c.41.
(**b**) S.I. 1986/975.
(**c**) S.I. 2005/480.
(**d**) 1989 c.44.
(**e**) Section 7 was amended by S.I. 2005/848.

(d) whether he is a contractor;

(e) if he is an OMP, that fact and the date of his approval as an OMP under regulation 37(3) or 38(7); and

(f) the date that his name was included in the ophthalmic performers list or, if his name was previously included in any ophthalmic list or ophthalmic supplementary list of a Primary Care Trust, the date that it was first included in such a list.

Qualifications of ophthalmic medical practitioners

36.—(1) The prescribed qualifications and experience which a registered medical practitioner is to possess to be recognised as an ophthalmic medical practitioner are that he has (at the date of consideration of his application under regulation 37) recent experience and that he —

(a) has had adequate experience and has held—

(i) an appointment in the health service, otherwise than under Part 2 of the 1977 Act(**a**), Part IV of the National Health Service Act 2006(**b**) or Part 4 of the National Health Service Act 1946(**c**), with the status of consultant ophthalmologist, or

(ii) an appointment for a period of not less than 2 years of equivalent status as ophthalmic surgeon or assistant ophthalmic surgeon on the staff of an approved ophthalmic hospital; or

(b) has—

(i) subject to paragraph (3), held one or more ophthalmic appointments in an approved ophthalmic hospital for a period totalling not less than 2 years, which shall include tenure for a period totalling not less than 6 months of a residential appointment or an appointment with duties comparable with those of a residential appointment,

(ii) obtained the Membership of the Royal College of Ophthalmologists, or any approved higher degree or qualification, and

(iii) had adequate experience.

(2) In this regulation "approved" means approved by the Committee or by the appeal committee on appeal from the Committee under regulation 38.

(3) The tenure for 6 months of a residential or comparable appointment referred to in pargraph (1)(b)(i) shall not be required in the case of a registered medical practitioner who has been fully registered for at least 7 years and whose experience is such as to make that requirement unnecessary.

Approval of qualifications of ophthalmic medical practitioners

37.—(1) A registered medical practitioner who wishes to establish his status as an OMP shall apply to the Committee for approval of his qualifications and experience and shall give to it such particulars of his qualifications and experience as it may require.

(2) The Committee shall consider and determine his application and within 2 months after the date of the application shall inform him of the Committee's determination.

(3) If the Committee is satisfied that he possesses the qualifications and experience prescribed by regulation 36, it shall approve him as an OMP.

(4) Notwithstanding the provisions of regulation 36 and of paragraph (1), a registered medical practitioner who has the prescribed qualifications for the purposes of providing

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(**a**) 1977 c.49.
(**b**) 2006 c.41.
(**c**) 1946 c.81.

general ophthalmic services in Scotland under the National Health Service (Scotland) Act 1978, or in Northern Ireland under the Health and Personal Social Services (Northern Ireland) Order 1972, shall be approved as an OMP.

(5) For the purposes of paragraph (2) the date of the application shall be—

(a) the date upon which a completed application with all necessary supporting details is received by the Committee; or

(b) if the Committee require any further particulars from the applicant, the date on which the Committee receive all the particulars which it requires.

Appeals from Ophthalmic Qualifications Committee

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

(2) The Secretary of State shall—

(a) appoint to determine the appeal an appeal committee of 3 persons, who shall be appointed after consultation with such bodies or organisations representing doctors as appear to him to be concerned with the issues relating to qualification as an OMP;

(b) refer the appeal to that appeal committee;

(c) send a copy of the notice of appeal to the Committee and to such other persons as may appear to him to be interested in the appeal; and

(d) inform the appellant, the Committee and any such other persons that the appeal has been referred to an appeal committee and of the address to which communications to the appeal committee shall be sent.

(3) The appeal committee may, and if requested to do so by the appellant or the Committee shall, hold a hearing in connection with an appeal at such time and place as they may direct.

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

(5) Either the appellant or the 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 the appeal will be held, give notice of a wish to appear before the appeal committee.

(6) Any party to an appeal shall be entitled to appear and be heard by counsel or solicitor,—

(a) the Committee shall be entitled to appear by a member or by their clerk or other officer duly appointed for the purpose; and

(b) 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

(7) Subject to the preceding provisions of this regulation, the procedure of the appeal committee in determining the appeal shall be such as it thinks proper.

(8) An appeal committee shall have all the powers of the Committee, including in particular the power of approval, and, if satisfied that an appellant possesses the qualifications prescribed by regulation 36, it shall so determine and accordingly the appellant shall be an OMP.

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

Application for inclusion in an ophthalmic performers list

39.—(1) In addition to the information required by regulation 4(2), the ophthalmic practitioner, when making an application for the inclusion of his name in a ophthalmic performers list, shall give the following information—

(a) his professional qualifications and where they were obtained, with evidence concerning his qualifications and experience, including, if he seeks inclusion as an OMP, evidence of his approval as an OMP under regulation 37 or 38;

(b) a declaration that he is included in the register;

(c) his professional registration number and date of first registration;

(d) whether he is a contractor; and

(e) whether he is a contractor for more than one scheme and, if so, which schemes and which of those schemes is the relevant scheme.

(2) In addition to the undertakings required by regulation 4(3), the ophthalmic practitioner shall give the following further undertakings—

(a) not to perform any primary ophthalmic services in the area of another Primary Care Trust or equivalent body from whose ophthalmic performers list, ophthalmic list, ophthalmic supplementary list or equivalent list he has been removed, except where that removal was at his request or in accordance with regulation 10(6) of these Regulations, regulation 10(6) of the Ophthalmic Supplementary List Regulations, regulation 9(2) of the Ophthalmic Regulations or any equivalent provision in Scotland or Wales, without the consent, in writing, of that Primary Care Trust or equivalent body;

(b) if he is a contractor, to comply with the requirements of paragraph 52 (gifts) of Schedule 1 to the General Ophthalmic Services Contracts Regulations 2008(**a**); and

(c) if he is not a contractor, to comply with the requirements in sub-paragraph (b) as though he were a contractor.

(3) Any person who is not an optometrist, but expects to become so on succesful completion of his training, may make an application to a Primary Care Trust not less than 3 months before he anticipates his being entered on the register.

(4) An application under paragraph (3) shall contain—

(a) all information mentioned in regulation 4(2) and paragraph (1) of this regulation, except that required by sub-paragraphs (b) and (c) of that paragraph;

(b) the undertakings, certificate and consent required by regulation 4(3) and paragraph (2) of this regulation;

(c) any declaration required under regulation 4(4) or (5), and

in the application of these Regulations to any such application, a reference to an optometrist, an ophthalmic practitioner or a performer shall be taken as being a reference to an applicant under paragraph (3).

(5) An applicant under paragraph (2) shall provide the information required by paragraph (1)(b) and (c) as soon as he has been notified by the General Optical Council whether he has been admitted to the register and the Primary Care Trust shall then, provided—

(a) the requirements of regulation 4 and paragraphs (3) and (4) of this regulation have been complied with;

(b) it has not sought further information, references or documentation from him under regulation 4(7); and

(c) it has not deferred the application under regulation 7,

(**a**) S.I. 2008/1185.

decide his application within 7 days of receiving the information required under paragraph (1)(b) and (c).

Additional grounds for refusal

40.—(1) In addition to the grounds in regulation 6(1), a Primary Care Trust may also refuse to admit an ophthalmic practitioner to its ophthalmic performers list if—

(a) having checked the information provided under regulation 39(1), it considers he is unsuitable to be included in its list;

(b) in the case of an OMP, regulation 24(1)(b), (c), (d) or (e) applies to him; or

(c) in the case of an optometrist, his registration in the register is subject to conditions imposed under section 13F (powers of the fitness to practise committee) of the Opticians Act or he is the subject of an order pursuant to section 13H (financial penalty order) of that Act(**a**).

(2) In addition to the grounds in regulation 6(2), a Primary Care Trust shall also refuse to admit a ophthalmic practitioner to its ophthalmic performers list if—

(a) he is a contractor and the relevant scheme is not one that lies within its area; or

(b) he is included in the ophthalmic performers list of another Primary Care Trust, unless he has given notice to that Trust that he wishes to withdraw from that list.

(3) For the purposes of regulation 6(2)(d), the day prescribed in this Part is 14th December 2001.

(4) In addition to checking the information provided by the ophthalmic practitioner as required by regulation 6(3)(a), the Primary Care Trust shall also check the information he provided under regulation 39.

Grounds for removal from a ophthalmic performers list

41.—(1) Subject to paragraph (2) and in addition to the grounds in regulation 10(1), the Primary Care Trust must remove an ophthalmic practitioner from its ophthalmic performers list where it becomes aware that he—

(a) is an OMP and regulation 26(1)(a) to (d) applies to him and, in a case where paragraph (1)(c) of that regulation applies to him, paragraph (2) of that regulation does not apply to him;

(b) is an optometrist and is the subject of a direction under section 13F(3)(a) or (b), (7) or (13)(a) or (b) of the Opticians Act;

(c) is included in the ophthalmic performers list of another Primary Care Trust.

(2) For the purposes of regulation 10(1)(b), the day prescribed in this Part is 14th December 2001.

(3) In calculating the period of 12 months under regulation 10(7) (periods to be disregarded), the Primary Care Trust shall disregard any period during which the ophthalmic practitioner's registration or his entitlement to practise as such was suspended—

(a) if he is an OMP, in a case to which regulation 26(5) applies; or

(b) if he is an optometrist, under section 13L (interim orders) of the Opticians Act(**b**).

(**a**) Sections 13F and 13H were inserted by S.I. 2005/848.
(**b**) Section 13L was inserted by S.I. 2005/848.

Additional decision that may be appealed

42. An ophthalmic practitioner may also appeal, under regulation 15, against a decision of the Primary Care Trust to refuse to include his name in its ophthalmic performers list under regulation 40(1).".

Transitional provisions

6. The provisions in the Schedule shall have effect.

Signed by authority of the Secretary of State for Health.

Ann Keen
Parliamentary Under-Secretary of State,
Department of Health

28th April 2008

SCHEDULE 1

Regulation 6

TRANSITIONAL PROVISIONS

Interpretation

1. In this Schedule—

"the 2001 Rules" means the Family Health Services Appeal Authority (Procedure) Rules 2001(**a**);

"continuing matter" means any case where the Initial Primary Care Trust had not yet come to a decision on any matter under the Ophthalmic Regulations or the Ophthalmic Supplementary Regulations;

"Initial Primary Care Trust" means a Primary Care Trust in whose ophthalmic list the ophthalmic practitioner's name was or had been included prior to the relevant date;

"the relevant date" means 1st August 2008,

and other terms used in this Schedule and in the principal Regulations shall bear the same meaning in this Schedule that they have in Part 4 of the principal Regulations.

Allocation of ophthalmic practitioners on previous lists

2. Subject to paragraph 5, in the case of an ophthalmic practitioner, whose name, immediately before the relevant date, was included in a Primary Care Trust's—

(a) ophthalmic list, but was not included in the ophthalmic list of any other Primary Care Trust (and the Trust is satisfied that his name was not so included); or

(b) ophthalmic supplementary list,

his name shall, on the relevant date, be included in its ophthalmic performers list.

3. Subject to paragraph 10, in the case of an ophthalmic practitioner whose name was, immediately before the relevant date, included in the ophthalmic list of more than one Primary Care Trust, his name shall, on that date, be included in the ophthalmic performers list of one of those Trusts in accordance with paragraphs 4 and 5.

(**a**) S.I. 2001/3750, relevant amendments are S.I. 2002/1921 and 2469, 2002/469, 2004/865 and 2006/562.

4. The ophthalmic practitioner shall be included in the ophthalmic performers list of the Primary Care Trust in which he has indicated to that Trust he wishes to be included.

5. If an ophthalmic practitioner would, by reason of paragraphs 2(a) or 4, be included in the ophthalmic performers list of a Primary Care Trust in whose area he will not be party to a scheme to provide primary ophthalmic services on or after the relevant date, but he is, or will be on the relevant date, party to such a scheme in the area of another Trust in whose ophthalmic list his name was—

(a) included immediately before the relevant date, he shall be included on the ophthalmic performers list of that Trust and, if he was immediately before the relevant date included in the ophthalmic list of more than one such Trust, the question of on which ophthalmic performers list his name is to be included in shall be determined in accordance with paragraph 4; or

(b) not included immediately before the relevant date, nor included in the ophthalmic list of any other Trust in whose area he will be party to a scheme to provide primary ophthalmic services on or after the relevant date, he, if wishes to be included in an opthalmic perfomers list, shall apply to be included in the ophthalmic performers list of a Primary Care Trust in whose area he will be party to a scheme to provide primary ophthalmic services on or after the relevant date.

Applications not decided by the relevant date

6. Subject to paragraph 7, in any case where there was any application to a Primary Care Trust, including an application which it has deferred, by an ophthalmic practitioner for his name to be included in its ophthalmic list or ophthalmic supplementary list and that application has not been decided before the relevant date, that application shall be deemed to be an application to have his name included in the Primary Care Trust's ophthalmic performers list.

7. In a case where—

(a) an ophthalmic practitioner has made an application to which paragraph 6 applies;

(b) his name was already included in an ophthalmic list or ophthalmic supplementary list of any other Primary Care Trust; and

(c) he had not given notice of an intention to withdraw from that list with that application,

that application shall be void and the Primary Care Trust shall so notify him, informing him of the reason for that.

Matters relating to the ophthalmic practitioner

8. Any matter, question or proceeding relating to any ophthalmic practitioner under the Ophthalmic Regulations or the Ophthalmic Supplementary List Regulations, that had not been finally decided before the relevant date, shall be treated as though it had arisen in relation to the ophthalmic performers list in which that ophthalmic practitioner has been included and shall continue to be dealt with by the Primary Care Trust.

9. In a case where an ophthalmic list or ophthalmic supplementary list, on which the ophthalmic practitioner's name was included immediately before the relevant date, contained, in relation to him, any condition or contingent removal, or if he was suspended from that list, that condition, contingent removal or suspension, as the case may be, shall equally apply to the ophthalmic performers list in which his name is included on and after the relevant date as it did, in relation to any other list, before that date.

10. In any case where there is any continuing matter and that matter had not been finally decided before the relevant date, that ophthalmic practitioner shall be included in the ophthalmic performers list of the Initial Primary Care Trust and paragraphs 3 to 5 do not apply to that opthalmic practitioner.

Enhanced criminal record certificates

11.—(1) Where an ophthalmic practitioner's name has been included in a ophthalmic performers list of a Primary Care Trust pursuant to this Schedule, and—

(a) it has not received an enhanced criminal record certificate under section 113B of the Police Act 1997(**a**) relating to him; and

(b) the Secretary of State directs that the Primary Care Trust shall require such a certificate from any ophthalmic practitioner whose name is included in its ophthalmic performers list,

the ophthalmic practitioner shall, within 3 months of the Primary Care Trust notifying him of that requirement, provide that certificate to it.

(2) When sub-paragraph (1)(b) applies, the Primary Care Trust shall write to each such ophthalmic practitioner informing him that he is now under a duty to—

(a) provide it with such a certificate; and

(b) do so within the period of 3 months beginning with the date of that letter,

and, subject to sub-paragraph (3), if the ophthalmic practitioner has not provided it with such a certificate within that time, it shall remove him from its ophthalmic performers list.

(3) The Primary Care Trust—

(a) shall extend the period prescribed in sub-paragraph (1), if the Secretary of State directs that an extension should be required in relation to all such cases or in such categories of case as he may set out in the directions; and

(b) may, if it thinks it is not reasonably practicable for that ophthalmic practitioner to provide it with such a certificate within the period of 3 months, beginning with the date of the letter under sub-paragraph (2), as extended by reason of any direction to which paragraph (a) above applies, extend that period for such time as it considers appropriate in the circumstances of the case,

and shall notify that ophthalmic practitioner of that extension of time.

Appeals to the FHSAA under Part 2 of the 2001 Rules

12.—(1) Where—

(a) the FHSAA receives a notice of appeal within the time limit specified in rule 5 of the 2001 Rules on or after the relevant date; and

(b) that notice of appeal concerns a disputed decision taken by a respondent Initial Primary Care Trust before the relevant date,

that Trust shall continue to be the respondent, even if the ophthalmic practitioner's name is, from the relevant date, included in the ophthalmic performer's list of a different Primary Care Trust.

13. Where—

(a) the FHSAA has received a notice of appeal in accordance with rule 6 of the 2001 Rules before the relevant date;

(b) that appeal concerns a disputed decision taken by a respondent Initial Primary Care Trust before the relevant date; and

(c) it has not been finally determined before the relevant date,

that Trust shall continue to be the respondent, even if the ophthalmic practitioner's name is, from the relevant date, included in the ophthalmic performer's list of a different Primary Care Trust.

(**a**) 1997 c.50**;** section 113B was inserted by the Serious Organised Crime and Police Act 2005, s.163(2) and amended by the Safeguarding Vulnerable Groups Act 2006, s 63(1) and Schedule 9 and the Armed Forces Act 2006 s. 378(1) and Schedule 16.

Applications to the FHSAA under Part 3 of the 2001 Rules

14. Where the FHSAA—

(a) has received an application pursuant to Part 3 of the 2001 Rules before the relevant date; and

(b) that application has not been finally determined immediately before the relevant date,

the parties to that application shall, from the relevant date, continue to be the ophthalmic practitioner who was a party immediately before the relevant date and the Initial Primary Care Trust.

General matters relating to cases under Part 4 of the 2001 Rules

15. Where a panel has—

(a) pursuant to rule 32(1), 33, 44(2) or 45(2) of the 2001 Rules given any directions; or

(b) pursuant to rule 37 of those Rules, varied any directions,

in relation to any appeal falling within paragraph 12, those directions or varied directions shall continue to apply to the Initial Primary Care Trust, even if the ophthalmic practitioner's name is, on and after the relevant date, included in the ophthalmic performers list of a different Primary Care Trust.

16. Where a panel has, pursuant to rule 42 or 43 of the 2001 Rules, given a decision—

(a) that decision shall continue to apply to the Initial Primary Care Trust; and

(b) that Trust, shall be entitled to apply to the FHSAA pursuant to and in accordance with rule 43 of the 2001 Rules for a review of a panel's decision.

17. Where the FHSAA has taken a decision before the relevant date which, by virtue of rule 46 of the 2001 Rules, it would, at the time it took that decision have been obliged to publish, that obligation shall continue on or after the relevant date if it has not already published the decision.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (Performers Lists) Regulations 2004 ("the Principal Regulations") so as to provide for lists of persons performing primary ophthalmic care to be kept by Primary Care Trusts in accordance with the provisions of section 28X of the National Health Service Act 1977, which still has force in relation to ophthalmic matters until the coming into force of the relevant provisions of the Health Act 2006 (see section 277(3) and (4) of the National Health Service Act 2006).

Regulation 3 provides some further definitions for the Principal Regulations and regulations 4 to 6 make minor amendments to those Regulations.

Regulation 7 adds a new Part 4 to the Principal Regulations (regulations 34 to 42 of the Principal Regulations) which modifies the general provisions in Part 1 to make provisions specific to ophthalmic practitioners.

Regulation 34 in the new Part 4 provides some definitions for Part 4.

Regulation 35 in the new Part 4 provides, subject to specified exceptions, that no ophthalmic practitioner may perform any primary ophthalmic services unless included in such a list, what information is to be included in the list and that the list shall be published.

Regulations 36 to 38 in the new Part 4 provide for a procedure whereby a doctor can be approved as an ophthalmic medical practitioner.

Regulation 39 in the new Part 4 supplements regulation 4 by providing for certain specific information to be provided by ophthalmic practitioners.

Regulation 40 in the new Part 4 provides further grounds on which the Primary Care Trust may or must refuse to admit an ophthalmic practitioner to its list, and matters to which it must have regard.

Regulation 41 in the new Part 4 provides additional grounds for the mandatory removal from its list by a Primary Care Trust of an ophthalmic practitioner, and modifies certain provisions for removal from a list in regulation 10.

Regulation 42 in the new Part 4 provides an additional ground of appeal for an ophthalmic practitioner to those in regulation 15.

Regulation 9 gives effect to the Schedule.

The Schedule makes transitional provisions.

An Impact Assessment has not been produced for this Instrument as it has no impact on the cost of business, charities or voluntary bodies.

£3.00

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