EXPLANATORY MEMORANDUM TO

THE GENERAL OPHTHALMIC SERVICES CONTRACTS REGULATIONS 2008
2008 No. 1185
THE PRIMARY OPHTHALMIC SERVICES REGULATIONS 2008
2008 No. 1186
THE NATIONAL HEALTH SERVICE (PERFORMERS LISTS) AMENDMENT AND TRANSITIONAL PROVISIONS REGULATIONS 2008
2008 No. 1187
THE PRIMARY OPHTHALMIC SERVICES TRANSITIONAL PROVISIONS REGULATIONS 2008
2008 No. 1209

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

2. Description

2.1 These regulations provide for a contractual regime to provide for commissioning primary ophthalmic services, which removes restrictions on who can provide the basic sight-testing service and creates a frame work for wider services over and above the sight test; and provide for the creation of local lists of those who may perform NHS funded sight tests. Transitional provisions allow for three months for implementation.

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

3.1 None.

4. Legislative Background

4.1 These instruments are made under powers in the Health Act 2006 now incorporated into the NHS Act 2006 at clauses 115 – 125. The National Health Service (Performers Lists) Amendment and Transitional Provisions Regulations 2008 amend the National Health Service (Performers Lists) Regulations 2004 ("The 2004 Regulations") (S.I. 2004/585) which provide for lists of persons performing primary medical services to be kept by Primary Care Trusts (PCTS) in accordance with the provisions of section 28X of the National Health Service Act 1977 ("the 1977 Act").

5. Extent

5.1 These instruments apply to England.

6. European Convention on Human Rights

6.1 As the instruments are subject to the negative resolution procedure and do not amend primary legislation, no statement is required.

7. Policy background

7.1 Currently under the law PCTs can only make arrangements for the NHS sight testing service with a limited range of providers. These Regulations implement primary legislation which allows PCTs to enter into contracts with all suitable providers to provide the service. They also create a list of local performers of NHS sight tests on similar lines to those that exist for medicine and dentistry. In place of more complex arrangements for opthalmic lists and ophthalmic perfomers lists.

7.2 Under these arrangements anybody who wishes to provide primary ophthalmic services must have a contract with the relevant Primary Care Trust.

7.3 It is also required, in common with NHS primary medical and dental services, that anybody who wishes to perform clinical services under a General Ophthalmic Services contract must be on a Primary Care Trust ophthalmic performers list.

7.4 The National Health Service (Performers Lists) Amendment and Transitional Provisions Regulations 2008 regulations set out the information, which must be provided and the declarations an optometrist or ophthalmic medical practitioner must make to be included in a list.

7.5 The listing regime includes provisions in relation to the conditional inclusion in a list, suspension from the list, contingent removal and disqualification. A national disqualification can be determined by the Family Health Services Appeal Authority ("FHSAA") established by section 169 of the 2006 Act.

7.6 The NHS General Ophthalmic Services Contracts Regulations 2008 set out required terms for contracts and also lay down who may not hold contracts. It includes provision whereby the may disqualify someone from having a contract to provide these services.

7.7 The regulations do not affect the services available to the public. Entitlement to NHS funded sight tests of all those currently eligible and this entitlement is set out in the Primary Ophthalmic Services Regulations 2008 which essentially restates the existing position.

7.8 The Primary Ophthalmic Services Transitional Provisions Regulations 2008 provide for Primary Care Trusts to act in advance of the main regulations coming into to force in order to allow fro work to proceed to establish the new arrangements.

8. Impact

8.1 A full Impact Assessment has not been prepared for these instruments as they have no significant impact on business, charities or voluntary bodies.

8.2 We do not consider that these Regulations have any additional implications for equality.

9. Contact

Derek Busby at the Department of Health Tel: 020 7 633 4159 or e-mail: derek.busby@dh.gsi.gov.uk can answer any queries regarding the instrument.