STATUTORY INSTRUMENTS

2008 No. 1209

NATIONAL HEALTH SERVICE, ENGLAND

The Primary Ophthalmic Services Transitional Provisions Regulations 2008

Made - - - -	*28th April 2008*
Laid before Parliament	*6th May 2008*
Coming into force - -	*3rd June 2008*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 43 and 79(3) of the Health Act 2006(**a**).

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the Primary Ophthalmic Services Transitional Provisions Regulations 2008 and shall come into force on 3rd June 2008.

(2) These Regulations apply in relation to England.

(3) In these Regulations—

"the 1986 Regulations" means the National Health Service (General Ophthalmic Services) Regulations 1986(**b**);

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

"the Contracts Regulations" means the General Ophthalmic Services Contract Regulations 2008(**d**).

Entering into POS contracts before 1st August 2008

2.—(1) A Primary Care Trust and a person proposing to be a contractor may enter into a contract before 1st August 2008 as though the Contracts Regulations were in force.

(2) If, in the course of negotiations intending to lead to a contract, the prospective contracting parties are unable, prior to 1st August 2008, to agree on a particular term of the contract that matter may be resolved as though the Contracts Regulations were in force.

(3) Terms used in this regulation and in the Contracts Regulations shall have the same meaning in this regulation as they do in the Contracts Regulations.

(**a**) 2006 c.28.
(**b**) S.I. 1986/975.
(**c**) S.I. 2008/1187.
(**d**) S.I. 2008/1185.

Ophthalmic performers lists before 1st August 2008

3.—(1) Primary Care Trusts shall prepare ophthalmic performers lists before 1st August 2008 as though the Amending Regulations were in force.

(2) An optometrist or OMP, who is included in an ophthalmic list or an ophthalmic supplementary list before 1st August 2008 and wishes to be included in an ophthalmic performers list, shall comply with the Schedule to the Amending Regulations as though they were in force.

(3) No list prepared in accordance with the provisions of this regulation shall have effect before 1st August 2008.

(4) Terms used in this regulation and in the Amending Regulations shall have the same meaning in this regulation as they do in the Amending Regulations.

Entitlement to Contract

4.—(1) Subject to paragraphs (2) and (3), any person whose name is included in the ophthalmic list of a Primary Care Trust, who notifies that Primary Care Trust by 1st July 2008, that he wishes to enter into a contract with it shall be entitled to a contract, subject to the resolution of any dispute about the terms of that contract pursuant to regulation 2(2).

(2) Paragraph (1) shall not apply to any person—

(a) to whom paragraphs 4(1B) to (1D) or 6ZA of Schedule 1 to the 1986 Regulations(**a**) apply;

(b) who is suspended from that list;

(c) who had been contingently removed from that list or whose inclusion in it was subject to a condition;

(d) who is subject to any inquiry or investigation as to his suitability for inclusion in that list or in the register; or

(e) who was included in that list in error.

(3) Where paragraph (1), but nor paragraph (2), applies to a person, the provisions inserted in the contract about the practise premises and normal hours to be provided by that person under the contract shall be those included in that ophthalmic list in relation to that person under regulation 6(3)(b) and (c) of the 1986 Regulations(**b**).

(4) Terms used in this regulation and in the 1986 Regulations or the Contract Regulations shall have the same meaning in this regulation as they do in the 1986 Regulations or the Contract Regulations, as the case may be.

Signed by authority for the Secretary of State for Health.

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

28th April 2008

(**a**) Paragraphs 4(1B) to (1D) and 6ZA were inserted by S.I. 2005/480.
(**b**) Regulation 6(3)(b) and (c) was amended by S.I. 2005/480.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make transitional provisions relating to general ophthalmic contracts and ophthalmic performers lists.

Regulation 2 permits Primary Care Trusts to enter into contracts for the provision of primary ophthalmic services as though the General Ophthalmic Services Contracts Regulations 2008 were in force.

Regulation 3 requires Primary Care Trusts to prepare ophthalmic performers lists prior to 1st August 2008 as though the National Health Service (Performers Lists) Amendment and Tranistional Provisions Regulations 2008 were in force and requires intending ophthalmic performers to comply with any obligations on them in the Schedule to those Regulations.

Regulation 4, subject to certain exceptions and conditions, entitles persons included in an ophthalmic list to obtain a contract.

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

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