

2005 No. 292

HEALTH AND PERSONAL SOCIAL SERVICES

**General Ophthalmic Services (Amendment) Regulations
(Northern Ireland) 2005**

Made - - - - - *13th June 2005*

Coming into operation *4th July 2005*

The Department of Health, Social Services and Public Safety^(a), in exercise of the powers conferred on it by Articles 62, 106 and 107(6) of the Health and Personal Social Services (Northern Ireland) Order 1972^(b) and of all other powers enabling it in that behalf, and in conjunction with the Department of Finance and Personnel and after consultation with such organisations as appeared to the Department to be representative of medical practitioners practising as ophthalmic medical practitioners, and ophthalmic opticians, as required by Article 62(3) of the said Order, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the General Ophthalmic Services (Amendment) Regulations (Northern Ireland) 2005 and shall come into operation on 4th July 2005.

(2) In these Regulations “the Ophthalmic Regulations” means the General Ophthalmic Services Regulations (Northern Ireland) 1986^(c).

Amendment of regulation 2 of the Ophthalmic Regulations

2.—(1) Regulation 2 of the Ophthalmic Regulations (interpretation)^(d) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1) –

(a) For the definitions of “deputy”, “mobile practice” and “optician” there shall be substituted respectively –

““deputy” means an ophthalmic medical practitioner or optician, who is included in the ophthalmic list and assists in the provision of general ophthalmic services;”;

““mobile practice” means a contractor who has made arrangements with the Board to provide mobile services and does not have premises in its area;”;

““optician” means a registered optometrist under section 7 (register of opticians) of the Opticians Act 1989^(e);”.

(b) The following definitions shall be inserted at the appropriate alphabetical places –

(a) See S.I. 1999/283 (N.I. 1) Article 3(6)
(b) S.I. 1972/1265 (N.I. 14)
(c) S.R. 1986 No. 163; relevant amending regulations are S.R. 1988 No. 110, S.R. 1989 Nos. 113 and 269, S.R. 1990 No. 191, S.R. 1995 No. 115, S.R. 1996 Nos. 135 and 416, S.R. 1999 Nos. 100 and 394, S.R. 2000 No. 51, S.R. 2001 No. 370, S.R. 2002 No. 85, S.R. 2003 Nos. 74, 176 and 424 and S.R. 2004 Nos. 92, 113, 156 and 162
(d) Relevant amendments are in S.R. 2001 No. 370
(e) Section 7 was amended by S.I. 2005/848

“mobile services” means general ophthalmic services provided at –
(a) a day centre;
(b) a residential centre; or
(c) the patient’s home, where the patient is unable to leave it unaccompanied because of physical or mental illness or disability,
which a contractor has made arrangements with the Board to provide in its area;” and
“ophthalmic list” means the list prepared by the Agency under regulation 8 of the Ophthalmic Regulations;”.

Amendment of regulation 8 of the Ophthalmic Regulations

3.—(1) Regulation 8 of the Ophthalmic Regulations (ophthalmic list)(a) shall be amended in accordance with the following provisions of this regulation.

- (2) In paragraph (3) –
 - (a) for sub-paragraph (b) there shall be substituted –

“(b) except in the case of a mobile practice, the addresses of any places in the Board’s area at which they have undertaken to provide general ophthalmic services, other than mobile services;”;
 - (b) in sub-paragraph (c) from “, or in the case of” to the end shall be deleted;
 - (c) in sub-paragraph (d) –
 - (i) after “or employee”, there shall be inserted “in assisting”, and
 - (ii) at the end, there shall be added “or in the provision of mobile services”; and
 - (d) at the end, there shall be added sub-paragraph (e) –

“(e) if the contractor has made arrangements with the Board to provide mobile services –
 - (i) that fact,
 - (ii) the addresses of any day or residential centres visited regularly, with particulars of the months in which visits are planned to take place and the planned interval between such visits, and
 - (iii) if that contractor is a mobile practice, that fact and the addresses to which correspondence in connection with such provision may be sent.”.

Amendment of regulation 9 of the Ophthalmic Regulations

4.—(1) Regulation 9 of the Ophthalmic Regulations (application for inclusion in ophthalmic list)(b) shall be amended in accordance with the following provision of this regulation.

- (2) In paragraph (1)(a), after “terms of service” there shall be inserted –

“and if wishing to provide mobile services, a statement to that effect, with an undertaking to provide mobile services and to comply with the terms of service relevant to the provision of mobile services”.

Amendment of regulation 12 of the Ophthalmic Regulations

5.—(1) Regulation 12 of the Ophthalmic Regulations (The Statement) shall be amended in accordance with the following provisions of this regulation.

- (2) In paragraph (1) –
 - (a) after “as to” insert –

“(a)”; and
 - (b) at the end add –

(a) Relevant amendments are in S.R. 2001 No. 370
(b) Relevant amendments are in S.R. 1996 No. 135

“and

“(b) the allowances to be paid in respect of continuing education and training by ophthalmic medical practitioners and opticians.”.

Amendment of Schedule 1 to the Ophthalmic Regulations

6.—(1) Schedule 1 to the Ophthalmic Regulations (terms of service)(a) shall be amended in accordance with the following provisions of this regulation.

(2) For paragraphs 3 (premises at which general ophthalmic services are to be provided) and 3A (visits) there shall be substituted –

“Premises at which general ophthalmic services are to be provided

3. Subject to paragraph 3A, a contractor shall provide general ophthalmic services only at an address which is included in relation to him in the ophthalmic list.

Provision of mobile services

3A.—(1) A contractor, who has made arrangements with the Board to provide mobile services, may provide them only in accordance with sub-paragraph (2), after giving notice in accordance with sub-paragraph (3).

(2) The contractor may only provide mobile services if –

- (a) the patient has requested the contractor to provide those services to him, or, where the patient is incapable of making such a request, a relative of his, a carer of that patient or a duly authorised person has made such a request; and
- (b) subject to sub-paragraphs (5), (6) and (7), he has notified the Board in accordance with sub-paragraphs (3) and, if applicable, (4) and the Board has not informed the contractor that it is not content with those changes.

(3) The contractor shall give notice to the Board of his intention to provide mobile services –

- (a) where they are to be provided to three or more persons at a day centre or residential centre, at least three weeks in advance; or
- (b) in any other case, as far in advance as is reasonably possible, but not less than 48 hours (except that no part of a Saturday, Sunday or public holiday shall count towards that period) in advance,

of that provision, identifying the persons to whom the services are to be provided and specifying the date and approximate time when he will provide them.

(4) If the contractor wishes to change any of the matters of which he has notified the Board under sub-paragraph (3), he shall so notify the Board at least 48 hours (except that no part of a Saturday, Sunday or public holiday shall count towards that period) before –

- (a) if he wishes to provide mobile services to further or different persons, that provision;
- (b) if he wishes to change the date or time of the provision of those services, both –
 - (i) the previously notified date of that provision, and
 - (ii) if the notification is to change the date, the date so notified.

(5) If the contractor is unable to attend the place at which he has notified the Board that he would be attending, he may instead, on that day and at that approximate time, provide mobile services at another location (“the substitution”), provided that the Board notifies him that it agrees to the substitution.

(6) In a case to which paragraph (5) applies the contractor may attend and provide mobile services at the originally notified place at such time as the Board shall agree.

(a) Relevant amending regulations are S.R. 1988 No. 110, S.R. 1989 Nos. 113 and 269, S.R. 1990 No. 191, S.R. 1996 No. 135, S.R. 2000 No. 51, S.R. 2001 No. 370, S.R. 2003 No. 74 and S.R. 2004 Nos. 92 and 156

(7) In a case where circumstances have arisen whereby it was not possible to notify in accordance with sub-paragraph (4)(a), the contractor may provide mobile services to up to 3 other persons at the previously notified time and place.”.

(3) In paragraph 4 (premises and equipment) –

(a) in sub-paragraph (1), for “sub-paragraph (1A)”, there shall be substituted “sub-paragraphs (1A) to (1D)”;

(b) for sub-paragraph (1A) there shall be substituted –

“(1A) A contractor, who has made arrangements with the Board to provide mobile services, shall provide suitable equipment for the provision of such services.

(1B) A contractor, who was included on the ophthalmic list of the Agency on 3rd July 2005, and who –

(a) does not provide or no longer provides accommodation and equipment, as required under sub-paragraph (1), or equipment as required under sub-paragraph (1A); and

(b) is not employed, in relation to the general ophthalmic services which he has undertaken to provide in the area of that Board, by another contractor,

may, instead of providing the accommodation and equipment, as required under sub-paragraph (1), or equipment as required by sub-paragraph (1A), enter into arrangements of the kind described in sub-paragraph (1C), provided the conditions set out in sub-paragraph (1D) are met.

(1C) The arrangements referred to in sub-paragraph (1B) are legally enforceable arrangements under which –

(a) requisite, proper and sufficient consulting and waiting room accommodation and suitable equipment; or

(b) in the case of the provision of mobile services, suitable equipment;

are available to him for the provision of the general ophthalmic services which he has undertaken to provide, which permit inspection as required under paragraph 4(2) or (2A).

(1D) The conditions referred to in sub-paragraph (1B) are that the contractor has satisfied the Board that –

(a) the arrangements are legally enforceable and permit inspection as required under paragraph 4(2) or (2A);

(b) the accommodation and equipment or, in the case of the provision of mobile services, equipment, provided under the arrangements are adequate and suitable.

(c) in sub-paragraph (2) for “sub-paragraph (2A)” there shall be substituted “sub-paragraphs (2A) and (3)”;

(d) in sub-paragraph (2A), for “In the case of a mobile practice, the contractor”, there shall be substituted, “A contractor, who has made arrangements with the Board to provide mobile services,”; and

(c) at the end, there shall be added sub-paragraph (3) –

“(3) In addition to the right to inspect under sub-paragraph (2A), a contractor, who has made arrangements with the Board to provide mobile services, shall allow an authorised officer of the Department, the Board or the Agency or authorised member of the Committee to inspect the facilities and equipment that he uses when providing those services at a location of which he notified the Board under paragraph 3A(3).”.

(4) Paragraph 5 (notices) shall be renumbered as sub-paragraph (1) of paragraph 5, and –

(a) at the beginning there shall be inserted “Subject to sub-paragraph (2),”; and

(b) at the end there shall be added sub-paragraph (2) –

“(2) Where mobile services are being provided, a notice shall be displayed only in so far as it is reasonably practicable to do so.”.

(5) In paragraph 7 (deputies) –

(a) for sub-paragraph (1) there shall be substituted –

“(1) A contractor may arrange for sight to be tested on his behalf by an ophthalmic medical practitioner or optician, but no such arrangements shall be made unless the name of that ophthalmic medical practitioner or optician is included on the ophthalmic list.”.

(6) In paragraph 8 (employees) –

(a) for sub-paragraphs (1), (2) and (3) there shall be substituted –

“(1) A contractor may employ to test sight –

(a) an ophthalmic medical practitioner or optician, whose name is included on the ophthalmic list; or

(b) a person, who is authorised to test sight by rules made under section 24(3) of the Opticians Act 1989 (testing of sight), acting under the continuous personal supervision of an ophthalmic medical practitioner or optician, whose name is included on the ophthalmic list.”.

(7) In paragraph 10(2) (testing of sight) –

(a) after “a contractor” there shall be inserted “or an ophthalmic medical practitioner or optician assisting him in the provision of general ophthalmic services”; and

(b) for “inform the patient’s doctor of his opinion.”, there shall be substituted –

“(i) refer the patient to an ophthalmic hospital,

(ii) inform the patient’s doctor or GP practice that he has done so, and

(iii) give the patient a written statement that he has done so, with details of the referral.”.

Transitional provisions

7.—(1) Any contractor –

(a) who was named on the ophthalmic list as a mobile practice on 3rd July 2005; or

(b) whose name was included on the ophthalmic list and provided mobile services immediately before 4th July 2005,

may continue to do so until 31st August 2005 and, if he wishes to continue to provide mobile services in the area of that Board after that date, he shall apply by 31st August 2005 to that Board to make arrangements with him to provide mobile services.

(2) If that contractor makes an application in accordance with paragraph (1), he may continue to provide mobile services in the area of that Board, pursuant to this regulation, until such time as that Board determines whether or not to make such arrangements with him.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 13th June 2005.

(L.S.)

Dr. J. F. Livingstone

A senior officer of the Department of Health, Social Services and Public Safety

Sealed with the Official Seal of the Department of Finance and Personnel on 13th June 2005.

(L.S.)

Mary McIvor

A senior officer of the Department of Finance and Personnel

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the General Ophthalmic Services Regulations (Northern Ireland) 1986 to make provision in relation to mobile services and for opticians to refer patients to a doctor within the hospital eye service and to so inform the patient's doctor and give that patient a statement to that effect.

They also require the statement prepared by the Department of Health, Social Services and Public Safety to include allowances to be paid in respect of continuing education and training of ophthalmic medical practitioners and opticians (regulation 5).

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