

2008 No. 2449

NATIONAL HEALTH SERVICE, ENGLAND

**The Primary Ophthalmic Services and National Health Service
(Optical Charges and Payments) Amendment Regulations 2008**

<i>Made</i> - - - -	<i>16th September 2008</i>
<i>Laid before Parliament</i>	<i>22nd September 2008</i>
<i>Coming into force</i> - -	<i>27th October 2008</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 115(2), 116(2) and 180(1), (2) and (5) of the National Health Service Act 2006(a).

Citation, commencement, application and interpretation

1.—(1) These Regulations may be cited as the Primary Ophthalmic Services and National Health Service (Optical Charges and Payments) Amendment Regulations 2008 and shall come into force on 27th October 2008.

(2) These Regulations apply in relation to England.

(3) In these Regulations—

“the POS Regulations” means the Primary Ophthalmic Services Regulations 2008(b); and

“the Charges Regulations” means the National Health Service (Optical Charges and Payments) Regulations 1997(c).

Amendments to the POS Regulations

2.—(1) The POS Regulations are amended in accordance with the following paragraphs of this regulation.

(2) In regulation 2(1) (interpretation), insert, after the definition of “an income-based jobseeker’s allowance” the following definition—

““income-related employment and support allowance” means an employment and support allowance, entitlement to which is based on section 1(2)(b) of the Welfare Reform Act 2007 (income related employment and support allowance)(d).”

(3) In regulation 3(2) (sight tests – eligibility), delete “or” at the end of sub-paragraph (h) and after sub-paragraph (i) add—

“(j) he is in receipt of income-related employment and support allowance; or

(k) he is a member of the same family as a person in receipt of income-related employment and support allowance.”.

(a) 2006 c. 41.

(b) S.I. 2008/1186 to which there are amendments which are not relevant to these Regulations.

(c) S.I. 1997/818; relevant amendments are S.I. 2003/657 and 2381, 2004/642 and 936 and 2005/630.

(d) 2007 c.5.

(4) In regulation 3(4) delete “and” at the end of sub-paragraph (b) and after sub-paragraph (c) add—

“; and

(d) in sub-paragraph (k) “family” has the meaning given to it by regulation 2 of the Employment and Support Allowance Regulations 2008(a).”.

Amendments to the Charges Regulations

3.—(1) The Charges Regulations are amended in accordance with the following paragraphs of this regulation.

(2) In regulation 1(2) (citation, commencement and interpretation)—

(a) insert, after the definition of “an income-based jobseeker’s allowance” the following definition—

““income-related employment and support allowance” means an employment and support allowance, entitlement to which is based on section 1(2)(b) of the Welfare Reform Act 2007 (income related employment and support allowance)(b).”; and

(b) for the definition of “prisoner” substitute—

““prisoner” means a person who is detained in a prison, including a young offender institution, but not a secure training centre or a naval, military or air force prison, but is, at the time he receives any primary ophthalmic service on leave from that prison and for the purposes of this definition;”.

(3) In regulation 8(3) (eligibility – supply of optical appliances), omit “or” at the end of sub-paragraph (l) and, after sub-paragraph (n), add—

“(o) he is in receipt of income-related employment and support allowance; or

(p) he is a member of the same family as a person in receipt of income-related employment and support allowance.”.

(4) In regulation 8(4) omit “and” at the end of sub-paragraph (b) and after sub-paragraph (c) add—

“; and

(d) in sub-paragraph (p) “family” has the meaning given to it by regulation 2 of the Employment and Support Allowance Regulations 2008(c).”.

Signed by authority for the Secretary of State for Health

16th September 2008

Ben Bradshaw
Minister of State,
Department of Health

(a) S.I. 2008/794.
(b) 2007 c.5.
(c) S.I. 2008/794.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Primary Ophthalmic Services Regulations 2008 (“the POS Regulations”) and the National Health Service (Optical Charges and Payments) Regulations 1997 (“the Charges Regulations”).

Regulation 2 amends regulation 3 of the POS Regulations to provide that a person who is receiving income-related employment and support allowance (or a member of that person’s family) will be entitled to an NHS sight test. It also inserts a definition of income-related employment and support allowance into the POS Regulations.

Regulation 3 amends regulation 8 of the Charges Regulations to provide that a person who is receiving income-related employment and support allowance (or a member of that person’s family) will be entitled to a voucher in respect of an optical appliance. It also inserts a definition of income-related employment and support allowance into the Charges Regulations and inserts a new definition of prisoner.

A full impact assessment has not been produced for this instrument as it has no impact on the private and voluntary sectors.

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STATUTORY INSTRUMENTS

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