
WELSH STATUTORY INSTRUMENTS

2023 No. 1053

The National Health Service (Ophthalmic Services) (Wales) Regulations 2023

PART 1

General

Title, coming into force and application

1.—(1) The title of these Regulations is the National Health Service (Ophthalmic Services) (Wales) Regulations 2023.

(2) These Regulations come into force on 20 October 2023.

(3) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations—

“the Act” (“*y Ddeddf*”) means the National Health Service (Wales) Act 2006;

“combined list” (“*rhestr gyfunol*”) has the meaning given in regulation 10;

“commencement date” (“*dyddiad cychwyn*”) means the day on which these Regulations come into force under regulation 1(2);

“contractor” (“*contractwr*”) means a qualified practitioner, other than a student optometrist, who has entered into an arrangement with a Local Health Board to provide primary ophthalmic services;

“corporate optician” (“*optegydd corfforedig*”) means a body corporate registered in the register maintained under section 9 of the Opticians Act 1989(1) (list of bodies corporate carrying on business as opticians), which is carrying on business as an optometrist, and for the purpose of this definition, “optometrist” has the meaning given in section 36 of that Act(2) (interpretation);

“deputy” (“*dirprwy*”) means an ophthalmic medical practitioner or an optometrist who is included in a combined list and assists in the provision of primary ophthalmic services;

“director” (“*cyfarwyddwr*”) means—

(a) a director of a body corporate;

(b) a member of a body of persons controlling a body corporate (whether or not a limited liability partnership);

(1) 1989 c. 44; section 9 was amended by S.I. 2005/848., article 10, the Co-operative and Community Benefit Societies Act 2014 (c. 14), Schedule 4, paragraph 44 and the Credit Unions and Co-operative and Community Benefit Societies Act (Northern Ireland) 2016 (c. 16), Schedule 1, paragraph 37.

(2) Section 36 was amended by S.I. 2005/848, Schedule 1, paragraph 8. There are other amendments to section 36 which are not relevant to these Regulations.

“dispensing optician” (“*optegydd cyflenwi*”) means a person registered as a dispensing optician in the register maintained under section 7 of the Opticians Act 1989(3) (register of opticians);

“eligible person” (“*person cymwys*”) has the meaning given in regulation 5;

“employer” (“*cyflogwr*”) includes any partnership of which a qualified practitioner is or was a member;

“employment” (“*cyflogaeth*”) means any employment whether paid or unpaid and whether under a contract of service or not, and “employee”, “employed” and “employer” must be interpreted accordingly;

“equivalent body” (“*corff cyfatebol*”) means—

- (a) in relation to England, NHS England, as established by section 1H of the National Health Service Act 2006(4);
- (b) in relation to Scotland, a Health Board established under section 2 of the National Health Service (Scotland) Act 1978(5);
- (c) in relation to Northern Ireland, the Department of Health in Northern Ireland;

“equivalent list” (“*rhestr gyfatebol*”) means a list kept by an equivalent body which is equivalent to a primary care list;

“eye examination” (“*archwiliad llygaid*”) has the meaning given in regulation 3;

“eye examination services” (“*gwasanaethau archwilio llygaid*”) has the meaning given in regulation 3;

“First-tier Tribunal” (“*Tribiwnlys Haen Gyntaf*”) means the First-tier Tribunal established under section 3(1) of the Tribunals, Courts and Enforcement Act 2007(6) (the First-tier Tribunal);

“general ophthalmic services” (“*gwasanaethau offthalmig cyffredinol*”) has the meaning given in regulation 4;

“Health Education and Improvement Wales” (“*Addysg a Gwella Iechyd Cymru*”) means the body established by the Health Education and Improvement Wales (Establishment and Constitution) Order 2017(7);

“hospital” (“*ysbyty*”) has the meaning given in section 206 of the Act (interpretation);

“licensing or regulatory body” (“*corff trwyddedu neu reoleiddio*”) means a body that licenses or regulates any profession of which the qualified practitioner is or has been a member, including a body licensing or regulating the education, training or qualifications of those professions, and any body which licenses or regulates any such profession, its education, training or qualifications, outside the United Kingdom;

“local authority” (“*awdurdod lleol*”) has the meaning given in section 206 of the Act (interpretation);

“medical” (“*meddygol*”) has the meaning given in section 206 of the Act (interpretation);

“medical practitioner” (“*ymarferydd meddygol*”) means a fully registered person within the meaning of section 55 of the Medical Act 1983(8) who holds a licence to practise under that Act;

(3) Section 7 was amended by S.I. 2005/848, article 7.

(4) 2006 c. 41.

(5) 1978 c. 29.

(6) 2007 c. 15.

(7) S.I. 2017/913 (W. 224).

(8) 1983 c. 54; the definition of “fully registered person” in section 55 was substituted by S.I. 2007/3101, regulation 29 and amended by S.I. 2008/1774, Schedule 1, paragraph 20 and S.I. 2019/593, Schedule 1, paragraph 30. There are other amendments to section 55 which are not relevant to these Regulations.

- “mobile practice” (“*practis symudol*”) has the meaning given in Schedule 3;
- “mobile services” (“*gwasanaethau symudol*”) means primary ophthalmic services provided at a place other than a registered premises;
- “a national disqualification” (“*anghymhwysiad cenedlaethol*”) means—
- (a) a decision made by the First-tier Tribunal under section 115 of the Act⁽⁹⁾ (national disqualification);
 - (b) a decision made under provisions in force in England, Scotland or Northern Ireland corresponding to section 115 of the Act;
- “the NHS Counter Fraud Authority” (“*Awdurdod Gwrth-dwyll y GIG*”) means the body established by the NHS Counter Fraud Authority (Establishment, Constitution, and Staff and Other Transfer Provisions) Order 2017⁽¹⁰⁾;
- “NHS Resolution” (“*NHS Resolution*”) means the NHS Litigation Authority, a body established by the National Health Service Litigation Authority (Establishment and Constitution) Order 1995⁽¹¹⁾;
- “notice” (“*hysbysiad*”) means a notice in writing;
- “officer” (“*swyddog*”) has the meaning given in section 206 of the Act (interpretation);
- “ophthalmic hospital” (“*ysbyty offthalmig*”) includes an ophthalmic department of a hospital;
- “ophthalmic list” (“*rhestr offthalmig*”) has the meaning given in regulation 10;
- “ophthalmic medical practitioner” (“*ymarferydd meddygol offthalmig*”) means a person recognised under regulation 9 and Schedule 2;
- “Ophthalmic Qualifications Committee” (“*Pwyllgor Cymwysterau Offthalmig*”) means such committee appointed by organisations representative of the medical profession as may be recognised by the Welsh Ministers for the purposes of approving—
- (a) ophthalmic hospitals, academic degrees, academic or postgraduate courses in ophthalmology and appointments affording special opportunities for acquiring the necessary skill and experience of the kind required for the provision of general ophthalmic services, and
 - (b) the qualifications of medical practitioners for the purpose of general ophthalmic services;
- “optometrist” (“*optometrydd*”) means a person registered as an optometrist in the register maintained under section 7 of the Opticians Act 1989 (register of opticians);
- “originating events” (“*digwyddiadau cychwynnol*”) has the meaning given in Schedule 3;
- “patient” (“*claf*”) means a person for whom a contractor has agreed to provide primary ophthalmic services;
- “primary care list” (“*rhestr gofal sylfaenol*”) means a list referred to in section 115(1)(a) to (d) of the Act;
- “primary ophthalmic services” (“*gwasanaethau offthalmig sylfaenol*”) has the meaning given in regulation 4;
- “primary ophthalmic services form” (“*ffurflen gwasanaethau offthalmig sylfaenol*”) means a form provided by a Local Health Board which must be completed by a contractor to receive payment for providing primary ophthalmic services under these Regulations;
- “professional conduct” (“*ymddygiad professiynol*”) includes matters relating both to professional conduct and professional performance;

(9) Section 115 was amended by S.I. 2010/22, Schedule 2, paragraph 139, the Health and Social Care Act 2012 (c. 7), Schedule 21, paragraph 31 and the Health and Care Act 2022 (c. 31), Schedule 1, paragraph 1.

(10) S.I. 2017/958, to which there are amendments not relevant to these Regulations.

(11) S.I. 1995/2800, to which there are amendments not relevant to these Regulations.

“professional registration number” (“*rhif cofrestru proffesiynol*”) means the number against the qualified practitioner’s name in the relevant register maintained by the General Medical Council or the General Optical Council;

“qualified practitioner” (“*ymarferydd cymwysedig*”) means—

- (a) a corporate optician;
- (b) an optometrist;
- (c) an ophthalmic medical practitioner;
- (d) a student optometrist;

“the register” (“*y gofrestr*”) has the meaning given in Schedule 3;

“registered premises” (“*mangre gofrestredig*”) means an address which is included in an ophthalmic list in relation to a contractor, in accordance with paragraph 1(g) of Schedule 3;

“the Statement” (“*y Datganiad*”) has the meaning given in regulation 31;

“student optometrist” (“*myfyriwr optometreg*”) means a person registered as a person undertaking training as an optometrist in the register maintained under section 8A of the Opticians Act 1989(12) (register of students);

“supplementary list” (“*rhestr atodol*”) has the meaning given in regulation 10;

“suspended” (“*wedi ei atal dros dro*”) means suspended—

- (a) under the Act;
- (b) under the National Health Service Act 2006;
- (c) under the National Health Service (Scotland) Act 1978;
- (d) under the Health and Personal Social Services (Northern Ireland) Order 1972(13);

“terms of service” (“*telerau gwasanaeth*”) means the terms set out in Schedule 4.

(12) Section 8A was added by S.I. 2005/848, article 9.

(13) S.I. 1972/1265 (N.I. 14), to which there are amendments not relevant to these Regulations.