

EXPLANATORY MEMORANDUM

Explanatory Memorandum to The National Health Service (Optical Charges and Payments) and (General Ophthalmic Services) (Amendment) (Wales) Regulations 2008

This Explanatory Memorandum has been prepared by Department of Health and Social Services and is laid before the National Assembly for Wales in accordance with Standing Order 24.1.

(i) **Description**

This SI amends the National Health Service (Optical Charges and Payments) Regulations 1997 to increase the level of the NHS sight test fee by 2.5%. The SI also amends Regulation 10 of the National Health Service (General Ophthalmic Services) Regulations 1986 to enable Welsh Ministers to make a determination in respect of allowances payable to ophthalmic medical practitioners, which can be paid in respect of a period beginning on a date earlier than the date of the determination, if taking the determination as a whole, it is not detrimental to the persons to whose remuneration it relates.

Matters of special interest to the Subordinate Legislation Committee

None.

(ii) **Legislative Background**

The Regulations will be made pursuant to powers under sections 71, 76, 77, 128, 129, 203 (9) and (10) of the NHS (Wales) Act 2006. Section 71 of the NHS (Wales) Act 2006 provides that each Local Health Board must arrange for securing of sight tests and section 72 provides that Regulations must provide as to arrangements made under section 71.

Section 76 of the NHS (Wales) Act 2006 provides that Regulations may provide that the Welsh Ministers may make determinations in relation to persons providing ophthalmic services. The determination may have effect in relation to remuneration in respect of a period beginning on or after a date specified in the determination, which may be the date of the determination or an earlier or later date, but may be an earlier date only if, taking the determination as a whole, it is not detrimental to the persons to whose remuneration it relates.

Any such determination will be published and may be amended in whole or in part after consultation with such organisations as appear to him/her to be representative of contractors providing general ophthalmic services. Legal Services have confirmed that the Determination can be signed by an official at Director level.

This instrument will follow the negative resolution procedure.

(iii) **Purpose and intended effect of the legislation**

The level of the NHS sight test fee and associated allowances in England are uplifted annually after negotiations between the Department of Health and the Optometric Fees Review Committee. In December 2007, the Department of Health recommended that an uplift of 2.5% be applied to fees and allowances in England for 2007-08. Northern Ireland are also proposing a 2.5% uplift. The situation in Scotland is not comparable. As from April 2006, Scotland introduced a new NHS eye health examination, to check the sight and health of patient's eyes, and no longer undertake NHS sight tests under General Ophthalmic Services. Introducing this SI will bring Welsh fees in line with England and Northern Ireland.

(iv) **Implementation**

The Regulations are due to come into force on 28 March

(v) **Consultation**

This increase has been negotiated with the Optometric Fees Review Committee. The Optometric Fees Review Committee comprises of the Association of Optometrists, the Federation of Ophthalmic & Dispensing Opticians and the British Medical Association. Optometry Wales have been consulted on the draft Regulations. Optometry Wales is the single organisation in Wales that represents the profession in Wales. The Business Service Centre, the organisation who make payments of behalf of LHBs, have been included in discussions regarding the increases.

(vi) **Regulatory Impact Assessment**

A Regulatory Impact Assessment has not been prepared for this instrument as it simply increases a statutory fee by a predetermined formula (for example, the rate of inflation)