

SL(6)667 – The National Health Service (Optical Charges and Payments) (Amendment) (No. 2) (Wales) Regulations 2025

Background and Purpose

These Regulations amend the National Health Service (Optical Charges and Payments) Regulations 1997 (“the 1997 Regulations”) to provide for an increase in the payments to be made by means of a voucher system in respect of costs incurred by certain categories of persons in connection with the supply, replacement and repair of optical appliances. The Regulations increase the optical voucher values from 1 April 2025 and make transitional provision in relation to vouchers issued or completed but not used or accepted before 1 April 2025.

Procedure

Negative.

These Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

Technical Scrutiny

The following two points are identified for reporting under Standing Order 21.2 in respect of this instrument.

1. Standing Order 21.2(iv) – that it appears to have retrospective effect where the authorising enactment does not give express authority for this.

These Regulations were made on 21 October 2025 and came into force on 11 November 2025. However, they have effect from 1 April 2025.

The Explanatory Memorandum to the Regulations notes that:

These Regulations have retrospective effect back to 01 April 2025 so as to ensure that the voucher value increases take effect from that date as agreed during tripartite negotiations between the Welsh Government, NHS Wales and Optometry Wales, as is the usual process and aligns to other contractor services, thereby providing an equitable and fair approach across all primary care contractors.

The reason for these Regulations requiring retrospective effect is due to the timing of the annual negotiations which take into consideration the outcome of the Doctors and



Dentists Remuneration Board, providing an equitable and fair approach across all primary care contractors.

It is noted that the same issue arose in relation to the National Health Service (Optical Charges and Payments) (Amendment) (Wales) Regulations 2025. Whilst the Committee notes the explanation provided for the retrospective effect, the Welsh Government is asked to explain how it intends to avoid the need to make regulations with retrospective effect in this area in the future.

2. Standing Order 21.2(vi) – that its drafting appears to be defective or it fails to fulfil statutory requirements.

Schedule 1 to the Regulations replaces Schedule 1 to the 1997 Regulations. In the new Schedule 1 to the 1997 Regulations, reference is made on two occasions to “the 2006 Act”. This term is not defined in either the Regulations or the 1997 Regulations. In the National Health Service (Wales) Act 2006 “the 2006 Act” means the Health Act 2006 but the reference in the new Schedule 1 to the 1997 Regulations is to the National Health Service (Wales) Act 2006. The term “the 2006 Act” therefore does not have the correct defined meaning for the purpose of these Regulations or the new Schedule 1 to the 1997 Regulations.

Merits Scrutiny

The following two points are identified for reporting under Standing Order 21.3 in respect of this instrument.

3. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

These Regulations came into force on 11 November 2025, less than 21 days after they were laid before the Senedd. The Cabinet Secretary for Health and Social Care wrote to the Llywydd on 4 November 2025 and stated that:

The Welsh Government’s intention was to fully comply with the 21-day convention on laying and coming into force. Regrettably, there has been a miscalculation when calculating the 21 days between laying and the coming into force of these Regulations resulting in the convention not being fully adhered to by 2 days. The result of this unintentional error is the Regulations will come into force 19 days after they have been laid.

I thank the Senedd’s Legislation, Justice and Constitutional Committee’s clerking team for identifying this issue and for prompt notification of this matter to the Welsh Government.

4. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd

No public consultation was carried out in relation to these Regulations. The Explanatory Memorandum notes that:



No public consultation has been undertaken, however, Optometry Wales, acting as the professional body representing community optometrists, opticians and dispensing opticians across Wales, worked in collaboration to reach an agreed negotiated outcome on the voucher values via tripartite discussions with the Welsh Government and NHS Wales. This follows a well-established and collaborative annual process between the key delivery partners deploying a social partnership approach.

Welsh Government response

A Welsh Government response is required in relation to the technical reporting points only.

Legal Advisers

Legislation, Justice and Constitution Committee

11 November 2025



Senedd Cymru

Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad

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Welsh Parliament

Legislation, Justice and Constitution Committee