
 STATUTORY INSTRUMENTS

1984 No. 1778

OPTICIANS

The Sale of Optical Appliances Order of Council 1984

<i>Made - - - -</i>	14th November 1984
<i>Laid before Parliament</i>	19th November 1984
<i>Coming into Operation</i>	10th December 1984

At the Council Chamber, Whitehall, the 14th day of November 1984

By the Lords of Her Majesty's Most Honourable Privy Council

Their Lordships, in exercise of powers conferred on Them by section 21(3A) of the Opticians Act 1958(a) and all other powers enabling Them in that behalf, are pleased to order, and it is hereby ordered, as follows:—

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Sale of Optical Appliances Order of Council 1984 and shall come into operation on 10th December 1984.

(2) In this Order, unless the context otherwise requires,—

“customer” means, in relation to an optical appliance, the person whose defect of sight is to be corrected, remedied or relieved by the appliance;

“registered blind or partially sighted” means, in relation to a person, that he is registered as a blind or partially sighted person—

(a) in a register compiled under section 29 of the National Assistance Act 1948(b),

(b) in a register kept by a regional or islands council in Scotland or by a local society for the blind on behalf of such a council, or

(c) with a Health and Social Services Board in Northern Ireland;

“spectacles” includes all forms of eyeglasses designed to correct, remedy or relieve a defect of sight except—

(a) contact lenses, and

(b) any appliance sold or to be sold in pursuance of a prescription which identifies the appliance to be sold as being a low vision aid (whether by means of the words “low vision aid” or some other similar words),

(a) 1958 c. 32; subsection (3A) of section 21 was inserted by the Health and Social Security Act 1984 (c. 48), section 1(1)(b).

(b) 1948 c. 29.

and includes frames or mounts which are intended for use as part of eyeglasses so designed and are sold or supplied without lenses and lenses so intended which are sold or supplied without frames or mounts.

(3) In this Order any reference to a British Standard bearing a number is to the standard of that number published by the British Standards Institution, as effective immediately before the day on which this Order is made.

Optical appliances exempted from requirements relating to sale

2. The optical appliances to which this Order applies are spectacles which are not for a person who is—

- (a) under 16 years of age; or
- (b) registered blind or partially sighted, except where—
 - (i) the seller of the appliance does not know, and has no reason to suspect, that it is for a person so registered, or
 - (ii) the spectacles are frames or mounts sold or supplied without lenses.

Conditions subject to which a sale is exempt

3.—(1) The sale of an optical appliance to which this Order applies is exempted from the requirements of section 21(1) of the Opticians Act 1958 (sale to be effected only by or under the supervision of a registered medical practitioner or registered optician) if—

- (a) neither cellulose nitrate nor celluloid has been used in the manufacture of the appliance or the manufacture of any part of it;
- (b) any conditions or other terms implied—
 - (i) in relation to the sale by section 14 of the Sale of Goods Act 1979(a) (quality and fitness), or
 - (ii) in relation to any services associated with the sale by section 13 of the Supply of Goods and Services Act 1982(b) (care and skill)

are not negated or varied (whether by express agreement or otherwise);

- (c) in the case of any appliance which consists of or includes one or more lenses, the further conditions specified in paragraph (2) of this Article are fulfilled;
- (d) in the case of an appliance which consists of or includes one or more lenses other than an appliance—
 - (i) which the prescription relating to it indicates is for correcting, remedying or relieving a defect in near sight,
 - (ii) each lens of which has two spherical surfaces,
 - (iii) each lens of which is of a power which, measured in dioptries, is a positive power not exceeding 5, and
 - (iv) no lens of which is bi-focal or multi-focal,

(a) 1979 c. 54.

(b) 1982 c. 29.

the further conditions specified in paragraph (3) of this Article are fulfilled; and

- (e) the appliance is sold on terms which include a condition, binding the seller, that the condition specified in sub-paragraph (a) of this paragraph and such of the conditions specified in paragraph (2) and (3) of this Article as by virtue of this paragraph are applicable to the sale of the appliance are fulfilled.

(2) The further conditions referred to in paragraph (1)(c) of this Article are that—

- (a) the appliance is in accordance with a written prescription which—
 - (i) has been given by a registered medical practitioner or registered ophthalmic optician following a testing of sight by him, and
 - (ii) bears a date not more than two years before the day on which it is presented to the seller for the purposes of the sale;
- (b) each lens conforms with the requirements specified in clauses 4 and 13 of British Standard 2738: 1962 (specification for spectacle lenses—surface defects and glazing); and
- (c) if there has been used in the manufacture of any lens a material of a type to which British Standard 3062: 1970 (certain white and tinted materials) applies, that lens conforms with the requirements there specified.

(3) The further conditions referred to in paragraph (1)(d) of this Article are that—

- (a) the seller has verified that the appliance is in accordance with the prescription by means of a focimeter;
- (b) if the prescription indicates the distance between the back vertex of a lens and the customer's cornea, by reference to which the power of the lens has been specified, the seller—
 - (i) has checked whether, in the case of an appliance of the type in question, that distance would be different from that indicated, and
 - (ii) if it would be different, has made any adjustment necessary in the power of the lens to ensure that when in use it gives the optical effect required by the prescription; and
- (c) except where the prescription otherwise provides, the optical centre of each lens is situated so as to be aligned, when the appliance is in use, to the centre of the customer's pupil, account having been taken, in situating the optical centre of any lens in an appliance other than a monacle, of the distance between the centres of the customer's pupils.

(4) For the purposes of paragraph (2)(a) of this Article an appliance shall be taken not to be in accordance with a written prescription if it does not conform to the requirements of clause 5 of British Standard 2738: 1962 (conformity with prescription) within the tolerances set out in clauses 6 to 12 thereof.

(5) For the purposes of sub-paragraphs (b) and (c) of paragraph (3) of this Article, where the appliance sold consists of one or more lenses intended for use with a frame or mount not sold or supplied with it or them, references to the appliance in those sub-paragraphs shall be taken as references to an appliance consisting of the lens or lenses and that frame or mount.

G. I. de Deney,
Clerk of the Privy Council.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order provides for exemptions from the restrictions imposed by section 21(1) of the Opticians Act 1958, under which (subject to exemptions specified in section 21(3)) an optical appliance may be sold only by or under the supervision of a registered medical practitioner or registered optician.

The exemption extends to sales of the optical appliances specified in Article 2 of the Order which are spectacles as defined in Article 1(2). Contact lenses, low vision aids, spectacles for those under 16 and spectacles (except unglazed frames) for registered blind or partially sighted persons are excluded from the scope of the exemption. The sale must comply with conditions specified in the Order. There are conditions relating to the materials used in the manufacture of the appliance (Article 3(1)(a)) and to the contractual terms on which it is sold (Article 3(1)(b) and (e)). Where the appliance contains a lens, it must be in accordance with a prescription not more than two years old (Article 3(2)(a) and must conform to certain British Standards (Article 3(2)(b) and (c)); except in the case of certain reading glasses and similar appliances (Article 3(1)(d)) the appliance must also be verified by a focimeter (Article 3(3)(a)), have correctly centred lenses (Article 3(3)(c)) and, where the prescription indicates a back vertex distance, be checked to ensure that the optical effect required by the prescription is given (Article 3(3)(b)).

The Order refers to British Standards 2738: 1962 (specification for spectacle lenses) and 3062: 1970 (specification for spectacle lens materials) published by the British Standards Institution. Copies of these standards may be obtained from any of the sales outlets operated by the Institution or direct by post from the Institution at Linford Woods, Milton Keynes MK14 6LE.