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SCOTTISH STATUTORY INSTRUMENTS

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**2003 No. 201**

**NATIONAL HEALTH SERVICE**

**The National Health Service (General Ophthalmic Services) (Scotland) Amendment Regulations 2003**

<i>Made</i>	- - - -	<i>19th March 2003</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>20th March 2003</i>
<i>Coming into force</i>	- -	<i>6th April 2003</i>

The Scottish Ministers, in exercise of the powers conferred by sections 26, 105(7) and 108(1) of the National Health Service (Scotland) Act 1978(1) and of all other powers enabling them in that behalf, hereby make the following Regulations:

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the National Health Service (General Ophthalmic Services) (Scotland) Amendment Regulations 2003 and shall come into force on 6th April 2003.

(2) In these regulations—

- (a) “the 1986 Regulations” means the National Health Service (General Ophthalmic Services) (Scotland) Regulations 1986(2); and
- (b) “eligible person” has the same meaning as in paragraph 2(1) of the 1986 Regulations.

**Amendment of the 1986 Regulations**

2.—(1) The 1986 regulations are amended as follows.

(2) In regulation 2(1) (interpretation)(3)—

- (a) after the definition of “capital limit”, insert—

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(1) 1978 c. 29; section 26 was amended by the Health and Social Security Act 1984 (c. 48), section 1(5), Schedule 1, Part II, paragraphs 1 to 4 and Schedule 8 and by the Health and Medicines Act 1988 (c. 49), section 13(4); section 105(7) was amended by the Health Services Act 1980 (c. 53), Schedule 6, paragraph 5 and Schedule 7 and by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 9, paragraph 24; section 108(1) contains definitions of “prescribed” and “regulations” relevant to the exercise of the statutory powers under which these Regulations are made. The functions of the Secretary of State were transferred to Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(2) S.I.1986/965.

(3) Regulation 2 was amended by S.I. 1988/543, 1989/387, 1991/534, 1992/531, 1995/704, 1996/843 and 2353, 1999/725 and S.S.I. 1999/55 and 2001/62.

- ““child tax credit” means child tax credit under the Tax Credits Act 2002(4);”;
- (b) after the definition of “director”, insert–
- ““disability element” means the disability element of working tax credit as specified in section 11(3) of the Tax Credits Act 2002;”;
- (c) after the definition of “qualifications”, insert–
- ““relevant income” has the same meaning as in section 7(3) of Part 1 of the Tax Credits Act 2002;”;
- (d) after the definition of “suspended by direction of the Tribunal”, insert–
- ““tax credit” has the same meaning as in section 1(2) of the Tax Credits Act 2002;”;
- (e) after the definition of “the Tribunal”, insert–
- ““working tax credit” means working tax credit under the Tax Credits Act 2002;”;
- and
- (f) omit the definitions of “amount withdrawn”, “disabled person’s tax credit” and “working families’ tax credit”.
- (3) In regulation 14 (sight tests – eligibility)(5)–
- (a) in paragraph (2)–
- (i) at the end of sub paragraph (j), insert– “or
- (k) he is a member of a family–
- (i) one member of which is receiving–
- (aa) working tax credit and child tax credit; or
- (bb) working tax credit which includes a disability element; or
- (cc) child tax credit, but is not eligible for working tax credit;
- (ii) where the relevant income of the person or persons to whom an award of a tax credit is made under section 14 of the Tax Credits Act 2002 is determined at the time of the award not to exceed £14,200; or
- (l) he is a member of a family in respect of which there is a current notice of entitlement under regulation 14ZA.”; and
- (ii) omit sub paragraphs (c), (d), (g) and (h); and
- (b) for paragraph (4), substitute–
- “(4) In paragraph (2)–
- (a) in sub paragraphs (b) and (f), “family” has the meaning given to it by section 137(1) of the Social Security Contributions and Benefits Act 1992, as it applies to income support;
- (b) in sub paragraph (j), “family” has the meaning given to it by section 35 of the Jobseekers Act 1995(6); and
- (c) in sub paragraph (k), “family” has the meaning given to it by regulation 2(2) of the Tax Credits (Definition and Calculation of Income) Regulations 2002(7).”.
- (4) After regulation 14, insert–

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(4) 2002 c. 36.

(5) Regulation 14 was substituted by S.I. 1989/387 and amended by S.I. 1991/534, 1995/704, 1996/2353, S.I. 1999/725, S.S.I. 1999/55, 2001/4 and 2002/86.

(6) 1995 c. 18.

(7) S.I. 2002/2006.

#### **“Notice of entitlement**

**14ZA.**—(1) Where a person is entitled to a sight test under general ophthalmic services because he is a member of a family described in regulation 14(2)(k), the Scottish Ministers shall issue a notice of entitlement under this regulation to that family.

(2) Such a notice of entitlement shall apply to—

- (a) any family member who is named in the notice of entitlement; and
- (b) any other member of such a person’s family.

(3) A notice of entitlement issued under paragraph (1) shall be effective—

- (a) from such date; and
- (b) for such period,

as the Scottish Ministers may determine.

(4) Any change in the financial or other circumstances of a person who is a member of a family in respect of which a notice of entitlement has been issued under paragraph (1), during the period for which the notice of entitlement has been issued, shall not affect the validity of the notice of entitlement in respect of that period.

(5) A notice of entitlement means a notice issued under this regulation and not under regulation 7 of the Remission Regulations (8).”

#### **Saving provision**

**3.** Notwithstanding the revocation of regulation 14(2)(c), (d), (g) and (h) of the 1986 Regulations, any person who, immediately before the coming into force of regulation 2 of these Regulations was an eligible person under regulation 14(2)(c), (d), (g) and (h) of the 1986 Regulations shall continue to be an eligible person until 31st July 2003.

St Andrew’s House, Edinburgh  
19th March 2003

*MALCOLM CHISHOLM*  
A member of the Scottish Executive

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(8) 1988/546. Regulation 7 was amended by S.I. 1993/642, 1995/700, 1996/429 and 2391 and 1997/1012.

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the National Health Service (General Ophthalmic Services) (Scotland) Regulations 1986 (“the 1986 Regulations”), which provide for arrangements under which ophthalmic medical practitioners and ophthalmic opticians provide general ophthalmic services under the National Health Service.

These Regulations make amendments to regulation 2 (interpretation) and 14 (sight tests – eligibility) of the 1986 Regulations consequent on the abolition of disabled person’s tax credit and working family credit and their replacement by child tax credit and working tax credit by the Tax Credits Act 2002.

Regulation 3 makes a saving provision for those persons who were entitled to a payment of, or contribution towards, the cost for the supply of an optical appliance or eligible for a sight test by virtue of being in receipt of one of the old tax credits or being a member of a family of such a person.