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SCOTTISH STATUTORY INSTRUMENTS

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**2008 No. 289**

**NATIONAL HEALTH SERVICE**

**The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No. 2) Regulations 2008**

*Made* - - - - 27th August 2008  
*Laid before the Scottish Parliament* - - - - 1st September 2008  
*Coming into force* - - 27th October 2008

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 70(1), 105(7) and 108(1) of, and by paragraphs 2 and 2A of Schedule 11 to, the National Health Service (Scotland) Act 1978(1) and all other powers enabling them to do so.

**Citation and commencement**

1. These Regulations may be cited as the National Health Service (Optical Charges and Payments) (Scotland) Amendment (No. 2) Regulations 2008 and come into force on 27th October 2008.

**Amendment of the National Health Service (Optical Charges and Payments) (Scotland) Regulations 1998**

2.—(1) The National Health Service (Optical Charges and Payments) (Scotland) Regulations 1998(2) are amended as follows.

(2) In regulation 1(2) (interpretation) after the definition of “income-based jobseeker’s allowance” insert—

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(1) 1978 c. 29. Section 70(1) was amended by the Health and Medicines Act 1988 (c. 49) (“the 1988 Act”), Schedule 3 and the Smoking, Health and Social Care (Scotland) Act 2005 (asp 13) (“the 2005 Act”), section 14(2); section 105(7) was amended by the Health Services Act 1980 (c. 53), Schedule 6, paragraph 5 and Schedule 7, the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 9, Part I, paragraph 24 and the Health Act 1999 (c. 8), Schedule 4, paragraph 60; section 108(1) contains definitions of “prescribed” and “regulations” relevant to the exercise of the statutory powers under which these Regulations are made; paragraph 2(1) of Schedule 11 was substituted by the 1988 Act, Schedule 2, paragraph 15(1) and paragraph 2A of Schedule 11 was inserted by the Health and Social Security Act 1984 (c. 48), Schedule 1, Part II, paragraph 7 and amended by the 1988 Act, section 13(2) and (5) and the 2005 Act, section 13(3). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(2) S.I.1998/642; amended by S.I. 1999/748 and S.S.I. 1999/64, 2000/45 and 395, 2001/88, 2002/17, 86 and 224, 2003/218 and 431, 2004/97 and 168, 2005/119, 2006/138, 2007/192 and 2008/106.

““income-related employment and support allowance” means an employment and support allowance, entitlement to which is based on section 1(2)(b) of the Welfare Reform Act 2007(3);”.

(3) In regulation 8 (eligibility – supply of optical appliances)–

(a) after paragraph (3)(n) insert–

“(o) he is in receipt of income-related employment and support allowance; or

(p) he is a member of the same family as a person described in sub-paragraph (o) of this paragraph.”; and

(b) after paragraph (4)(c) insert–

“(d) in sub-paragraph (p), “family” has the meaning given to it by regulation 2 of the Employment and Support Allowance Regulations 2008(4).”.

St Andrew’s House,  
Edinburgh  
27th August 2008

*NICOLA STURGEON*  
A member of the Scottish Executive

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(3) 2007 c. 5.  
(4) S.I. 2008/794.

## EXPLANATORY NOTE

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

These Regulations amend the National Health Service (Optical Charges and Payments) (Scotland) Regulations 1998 (“the 1998 Regulations”) which provide for 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.

Regulations 2(2) and 2(3)(b) insert new definitions into the 1998 Regulations which relate to the amendment made by regulation 2(3)(a). Regulation 2(3)(a) amends regulation 8 of the 1998 Regulations to provide that a person who is receiving income-related employment and support allowance (or a member of that person’s family) will be entitled to a payment towards the cost incurred for the supply of an optical appliance for which a prescription has been given.