

1990 No. 551 (S.70)

NATIONAL HEALTH SERVICE, SCOTLAND

The National Health Service (Travelling Expenses and
Remission of Charges) (Scotland) Amendment
Regulations 1990

<i>Made</i> - - - -	<i>8th March 1990</i>
<i>Laid before Parliament</i>	<i>9th March 1990</i>
<i>Coming into force</i>	<i>1st April 1990</i>

The Secretary of State for Scotland, in exercise of the powers conferred on him by sections 75A, 105 and 108(1) of the National Health Service (Scotland) Act 1978(a), and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Amendment Regulations 1990 and shall come into force on 1st April 1990 immediately after the coming into force of the provisions of the Income Support (General) Amendment Regulations 1990(b) specified in regulation 1(1)(a) (“commencement”) of those Regulations.

(2) In these Regulations “the principal Regulations” means the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 1988(c).

Amendment of regulation 2 of the principal Regulations

2.—(1) In regulation 2 (“interpretation”) of the principal Regulations—

(a) in paragraph (1), after the definition of “income support”, there shall be inserted the following definition:—

““partner” has the meaning assigned to it by regulation 2(1) of the Income Support (General) Regulations 1987(d);”;

(b) in paragraph (2), for the words from “an instrument” to “a reference”, there shall be substituted the words “a provision of the Social Security Act 1986(e) or to an instrument made under that Act is to be construed as a reference to that provision or, as the case may be,”.

Amendment of regulations 3, 5 and 6 of the principal Regulations

3.—(1) In regulations 3(2)(b) and 5(2) of the principal Regulations, for the words “section 70(1)” in each case, there shall be substituted the words “section 70(1A)”.

(a) 1978 c.29; section 75A was inserted by section 14(2) of the Social Security Act 1988 (c.7); section 105, which was amended by the Health Services Act 1980 (c.53), Schedule 6, paragraph 5(1) and Schedule 7 and by the Health and Social Services and Social Security Adjudications Act 1983 (c.41), Schedule 9, paragraph 24, contains provisions relevant to the making of regulations; section 108(1) contains definitions of “prescribed” and “regulations” relevant to the exercise of the statutory powers under which these Regulations are made.

(b) S.I. 1990/547.

(c) S.I. 1988/546, amended by S.I. 1989/393 and 616.

(d) S.I. 1987/1967, amended by S.I. 1988/663, 910, 999, 1228, 1445, 2022, 1989/43, 534, 1323, 1678, 1990/547.

(e) 1986 c.50.

(2) In regulation 6 ('calculation of resources and requirements') of the principal Regulations there shall be added at the end of paragraph (2) the words "and in each case in accordance with the provisions of these Regulations in force at that date".

Amendment of Table A in Part I of Schedule 1 to the principal Regulations

4. In Table A in Part I of Schedule 1 ("Calculation of resources") to the principal Regulations—

- (a) the entry "regulation 24" in column 1 and the corresponding entry in column 2 shall be omitted;
- (b) in the substituted regulation 25 set out in column 2 in relation to the entry "regulation 25" in column 1—
 - (i) after the words "normal weekly income" there shall be inserted the words "from those payments";
 - (ii) in sub-paragraph (b), after the word "average", there shall be inserted the word "amount";
- (c) in column 2 the words from "; and for" to "' , 41 and 42'" where they appear in relation to the entry "regulation 28" in column 1 shall be omitted;
- (d) in column 2 for the words "paragraphs (2) to (5)" and the words "paragraphs (2) to (6)" where they appear in relation to the entry "regulation 32" in column 1 there shall in each case be substituted the words "paragraphs (2) to (7)";
- (e) the entries "regulation 33" and "regulation 37" in column 1 and the corresponding entries in column 2 shall be omitted;
- (f) in column 2, for the words "and paragraph (3)" where they appear in relation to the entry "regulation 41" in column 1, there shall be substituted the words "and paragraphs (3) and (4)";
- (g) the entry "regulation 43" in column 1 and the corresponding entry in column 2 shall be omitted;
- (h) in column 2, for the words "paragraphs (2), (3) and (8)" where they appear in relation to the entry "regulation 44" in column 1, there shall be substituted the words "paragraphs (2), (3), (8) and (9)";
- (i) for the entry in column 2 corresponding to the entry "regulation 48" in column 1, there shall be substituted the following entry:—

"As if in paragraph (2) the words from "Except" to "applies", were omitted; in paragraph (5) the words "Subject to paragraph (6)" were omitted; and paragraphs (6) and (10)(a) and (b) were omitted.";
- (j) in the entry in column 2 corresponding to the entry "Schedule 8" in column 1, immediately below the words "As if paragraph 6 were omitted.", there shall be inserted the following words:—

"As if in paragraph 7, for the words "none of paragraphs 4 to 6", there were substituted the words "neither of paragraphs 4 or 5".";
- (k) for the entry "Schedule 9" in column 1 and the corresponding entry in column 2, there shall be substituted the following entries:—

"Schedule 9 As if paragraph 12 were omitted.

As if in paragraph 15 the references to paragraph 37 were omitted in sub-paragraphs (1) and (2); and sub-paragraph (3)(b) were omitted.

As if in paragraph 16 for the words "paragraphs 36 and 37" there were substituted "paragraph 36

As if in paragraph 21(1) the words from "or in the case" to "applies" were omitted.

As if in paragraph 28 the words from "Except" to "return to work)" were omitted.

As if paragraphs 30, 34 and 37 were omitted.

Schedule 10 As if in paragraph 17 for the words from "Except" to "payment" there were substituted the words "Any payment".

Substitution of Part II of Schedule 1 to the principal Regulation

5. For Part II of Schedule 1 ("Calculation of requirements") to the principal Regulations, there shall be substituted the following:—

"PART II

CALCULATION OF REQUIREMENTS

3. A claimant's requirements shall be calculated as being the amount referred to in sub-paragraph (a) of this paragraph, less, where applicable, the amount referred to in sub-paragraph (b) of this paragraph, as follows:—

(a) the amount which represents the aggregate of—

(i) the weekly applicable amount which would apply to him, including that in respect of any other member of his family, in connection with a claim for income support as specified by the provisions of regulations 17 to 21 of, and Schedules 2, 34 and 7 to, the Income Support (General) Regulations 1987(a), but subject to the modifications referred to in paragraph 2(b) and (c) and paragraph 4; and

(ii) 80% of the weekly amount of any personal community charge which the claimant or his partner is liable to pay under section 12 of the Local Government Finance Act 1988(b) or section 8 of the Abolition of Domestic Rates Etc. (Scotland) Act 1987(c), or of any collective community charge contribution which he or his partner is liable to pay under section 9 of the Local Government Finance Act 1988 or section 11(11) of the Abolition of Domestic Rates Etc. (Scotland) Act 1987 but disregarding any such amount where the person liable to pay it is a registered student within the meaning of section 13 of that Act of 1988 or a person undertaking a full-time course of education within the meaning of section 8 of that Act of 1987;

(b) the amount which represents the aggregate of the weekly amount of any housing benefit and the weekly amount of any community charge benefit received by the claimant or by any member of his family under the provisions of Part II of the Social Security Act 1986(d).

4. The provisions of the Income Support (General) Regulations 1987 specified in column 1 of Table B in this Schedule shall be applied in accordance with the modifications specified in the corresponding entries in column 2 of that Table.

(a) S.I. 1987/1967.

(b) 1988 c.41.

(c) 1987 c.47; section 8 was amended by section 129(1) of, and by paragraph 18 of Schedule 12 to, the Local Government Finance Act 1988 (c.41) ("the 1988 Act"); section 11(11) was amended by paragraph 20 of Schedule 12, and by Schedule 13, to the 1988 Act.

(d) 1986 c.50; Part II has been amended by paragraphs 20, 21 and 23 to 26 of Schedule 4, and by Schedule 5, to the Social Security Act 1988 (c.7), by paragraphs 1 to 6 of Schedule 10 to the Local Government Finance Act 1988 (c.41), by section 121 of, and paragraph 76 of Schedule 17 to, the Housing Act 1988 (c.50), and by sections 5, 13, 14 and 15 of, and by paragraphs 9, 15, 16 and 17 of Schedule 8, and Schedule 9 to, the Social Security Act 1989 (c.24).

TABLE B

MODIFICATIONS OF PROVISIONS OF THE INCOME SUPPORT (GENERAL) REGULATIONS 1987 FOR THE PURPOSES OF PART II OF THIS SCHEDULE

<i>Column 1</i> <i>Regulation or Schedule</i>	<i>Column 2</i> <i>Modification</i>
regulation 17	As if for the words from "18 to 22" to "urgent cases)" there were substituted "18 to 21"; and as if paragraph (1)(g) were omitted.
regulation 18	As if for the words from "19 to 22" to "urgent cases)" there were substituted "19 and 21"; and as if paragraph (1)(h) were omitted.
regulations 19 and 21	As if in paragraph (1) of each of these Regulations the references to regulation 22 were omitted.
Schedule 2	As if in column (1) of the Table in paragraph 1, for heads (a) and (b) of sub-paragraphs (1) and (2) there were substituted in each of those sub-paragraphs the following heads:- "(a) except where head (b) of this sub-paragraph applies, less than 18; (b) less than 18 and in respect of whom an amount is applicable under Schedule 3;" ; as if head (c) of sub-paragraphs (1) and (2) were omitted in columns (1) and (2) of that Table; as if in head (a) of sub-paragraph (3) in column (1) of that Table the word "and" and sub-heads (i) to (v) were omitted; as if in head (d) of sub-paragraph (3) in column (1) of that Table the words from "and the other" to the end of the head were omitted; and as if heads (aa), (b), (e) and (f) of sub-paragraph (3) were omitted in columns (1) and (2) of that Table.
Schedule 3	As if in paragraph 1- (a) sub-paragraph (aa) were deleted and there were inserted in substitution therefor - "(aa) all payments of interest and capital under an agreement for instalment purchase to buy the dwelling occupied as the home;" and (b) after sub-paragraph (h) there were added- "(i) mortgage capital payments; (j) payments in respect of an endowment policy in connection with the purchase of the dwelling occupied as the home; (k) payments by way of rent which do not otherwise fall within sub-paragraph (c) or (e) of this paragraph; As if in paragraph 9(1) for the words "paragraph 1(c) to (h)" there were substituted the words "paragraph 1(c) to (h) and (k)". As if paragraph 4(11)(7)(e) were omitted." As if paragraphs 5(a), 7, 8 and 10 were omitted.
Schedule 4	As if in paragraph 1(1)(a) the words from "but, except" to "paragraph 5" were omitted. As if paragraphs 5 to 12 were omitted.
Schedule 7	As if the references in paragraphs 1, 10A, 10B, 10C and 13 to sub-paragraph (g) of regulation 17(1) were omitted. As if the references in paragraphs 1, 10B and 13 to sub-paragraph (h) of regulation 18(1) were omitted. As if paragraphs 7 and 17 were omitted."

Revocations

6. The National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Amendment Regulations 1989(a) and the National Health Service (Travelling Expenses

(a) S.I. 1989/393.

and Remission of Charges) (Scotland) Amendment (No. 2) Regulations 1989^(a) are hereby revoked save in respect of claims under the principal Regulations which fall to be determined under the law in force immediately before 1st April 1990.

St. Andrew's House, Edinburgh
8th March 1990

Michael B. Forsyth
Parliamentary Under Secretary of State,
Scottish Office

^(a) S.I. 1989/616.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations which come into force on 1st April 1990 further amend the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 1988 ("the principal Regulations") which provide for the remission and repayment of certain charges which would otherwise be payable under the National Health Service (Scotland) Act 1978 and for the payment by the Secretary of State of certain travelling expenses.

With the exception of regulations 2 (which amends the interpretation provision of the principal Regulations, in particular to insert a definition of "partner") and 3 (which makes minor amendments to the principal Regulations), these Regulations amend Schedule 1 to the principal Regulations which specifies the manner in which a person's requirements and resources are to be calculated for the purposes of calculating entitlement under the Regulations. Table 2 in Part I of that Schedule is amended to make further modifications to those provisions of the Income Support (General) Regulations 1987 by reference to which a person's resources are calculated (regulation 4). Regulation 5 replaces Part II of that Schedule to effect amendments, in particular, in consequence of the introduction of the community charge and the abolition of domestic rates in England and Wales from 1st April 1990, and to make special provision for the calculation of the requirements of persons under the age of 18 (regulation 2(4), (5) and (6)). The Regulations also effect certain minor and consequential amendments in Schedule 1 to the principal Regulations.

Regulation 6 revokes earlier Regulations which amended the principal Regulations.

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