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STATUTORY INSTRUMENTS

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**1995 No. 700 (S.58)**

**NATIONAL HEALTH SERVICE, SCOTLAND**

The National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Amendment Regulations 1995

<i>Made</i>	- - - -	<i>9th March 1995</i>
<i>Laid before Parliament</i>		<i>10th March 1995</i>
<i>Coming into force</i>	- -	<i>1st April 1995</i>

The Secretary of State, in exercise of the powers conferred on him by sections 75A, 105 and 108(1) of the National Health Service (Scotland) Act 1978(1), 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 1995 and shall come into force on 1st April 1995.

(2) In these Regulations—

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

**Amendment of regulation 2 of the principal Regulations**

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

(a) after the definition of “date of claim” there shall be inserted the following definition:—

““disability working allowance” means disability working allowance under Part VII of the Social Security Contributions and Benefits Act 1992(3);” and

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(1) 1978 c. 29; Section 75A was inserted by the Social Security Act 1988 (c. 7), section 14(2), and amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), Schedule 9, paragraph 19(13); section 105(7) which 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, 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.

(2) S.I. 1988/546; relevant amending instruments are S.I. 1990/551, 1990/1665, 1991/575, 1993/642 and 1993/2049.

(3) 1992 c. 4.

- (b) for the definition of “family” there shall be substituted the following definition:—
- ““family” has the meaning assigned to it by section 137(1) of the Social Security Contributions and Benefits Act 1992 as it applies to income support(4), except that—
- (a) in regulation 4(d) it has the meaning assigned to it by section 137(1) of that Act as it applies to family credit(5), and
- (b) in regulation 4(h) it has the meaning assigned to it by section 137(1) of that Act as it applies to disability working allowance(6);”.

### **Amendment of regulation 4 of the principal Regulations**

3. In regulation 4 of the principal Regulations (description of persons entitled to full remission and payment) there shall be added at the end of paragraph (f) the word “or” and the following paragraphs:—

- “(g) a person who is in receipt of disability working allowance and whose capital resources calculated in accordance with the regulations concerning entitlement to that allowance(7) did not exceed £8,000 at the date on which that allowance was claimed, or
- (h) a member of the same family as a person described in paragraph (g) of this regulation, or
- (i) a person, not being a person described in paragraph (g) of this regulation, who is in receipt of disability working allowance and whose capital resources calculated in accordance with the provisions of regulation 6 and Schedule 1 do not exceed £8,000, or
- (j) a member of the same family as a person described in paragraph (i) of this regulation.”.

### **Amendment of regulation 6 of the principal Regulations**

4. In paragraph (1) of regulation 6 of the principal Regulations (calculation of resources and requirements) for the words “resources and requirements of a person, and” there shall be substituted the words “resources or requirements of a person, or”.

### **Amendment of regulation 7 of the principal Regulations**

5. In regulation 7 of the principal Regulations (claims for remission or payment)—
- (a) in paragraph (1), for the words “regulation 4(e) or (f)” there shall be substituted the words “regulation 4(e), (f), (i) or (j)”;
- (b) in paragraph (3), after the word “requirements” there shall be inserted the words “or, in the case of a claim by a person who is within a description prescribed by regulation 4(i), or (j), the capital resources”; and
- (c) for paragraph (6) there shall be substituted the following paragraph:—
- “(6) A notice of entitlement issued under paragraph (4) shall be effective—
- (a) in the case of a person who is within a description prescribed by regulation 4(i) or (j), from the date of claim until the date on which disability working allowance payable at the date of claim to that person or, as the case may be, to a member

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(4) See S.I. 1987/1967, regulations 14 to 16; relevant amending instruments are S.I. 1988/663 and 1445, 1989/534, 1990/547, 1992/468 and 3147, 1993/2119.

(5) See S.I. 1987/1973, regulations 6 to 9; relevant amending instruments are S.I. 1988/660, 1990/574, 1992/573 and 1993/2119.

(6) See S.I. 1991/2887, regulations 8 to 11 as amended by S.I. 1993/2119.

(7) S.I. 1991/2887; see regulations 12, 13 and 32 to 40 relating to calculation of capital.

of that person's family, under an award of that allowance made on or before the date of claim, ceases to be payable; or

(b) in any other case, for a period of 6 months from the date of claim, subject to its being superseded by any further notice issued as a result of a claim made in accordance with paragraph (8), and shall specify the date of commencement and expiry of that period.”.

### **Amendment of Schedule 1 to the principal Regulations**

6. In Table B of Part II of Schedule 1 to the principal Regulations (modifications of provisions of the Income Support (General) Regulations 1987)—

(a) at the beginning the following entry shall be inserted:—

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“regulation 3	As if in paragraph (1) the words “or with whom a claimant normally resides” were omitted.”;
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(b) in Column 2 at the end of the entry relating to “Schedule 2”(8) there shall be added—

“As if in paragraph 12(1)(a)(i)—

(a) for the words “long term incapacity benefit” the first time they appear, there were substituted the words “incapacity benefit, where the claimant or partner has been in receipt of that benefit for at least 28 weeks,”; and

(b) the words from “but, in the case” to the end were omitted.

As if in paragraph 12(1)(b) for sub-head (ii) there were substituted the following sub-head:—

“(ii) has been so entitled or so incapable for a continuous period of at least 28 weeks;”

As if in paragraph 12(1)(c)(i) for the words “long term incapacity benefit”—

(a) the first time they appear there were substituted the words “incapacity benefit and had been receiving that benefit for at least 28 weeks,”; and

(b) the second time they appear there were substituted the words “incapacity benefit”.

As if in paragraph 12(6) for the words “long-term incapacity benefit” the first time they appear there were substituted the words “incapacity benefit, notwithstanding the requirement that the claimant or his partner has been in receipt of that benefit for at least 28 weeks,”.

As if in paragraph 13(2)(a)(ii) and (2)(b)(iii) for the words “normally residing with him or with whom he is normally residing” there were substituted the words “residing with him”.”.

### **Transitional**

7.—(1) In the case of a claim made under paragraph (2) of regulation 8 of the principal Regulations (repayment), where that claim relates to a relevant charge or relevant travelling expenses paid before 1st April 1995, the claimant's resources and requirements shall be calculated as if these Regulations had not been made.

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**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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(2) In this regulation “relevant charge” and “relevant travelling expenses” have the same meanings as in the principal Regulations.

New St. Andrew’s House,  
Edinburgh  
9th March 1995

*Fraser of Carmyllie*  
Minister of State, Scottish Office

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## EXPLANATORY NOTE

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

These Regulations 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 of travelling expenses incurred in attending a hospital.

Regulation 2 inserts a definition of “disability working allowance” and amends the definition of “family”.

Regulation 3 amends the principal Regulations so as to provide that a person who is in receipt of disability working allowance and whose capital is not more than £8,000 shall be entitled to full remission of charges and full payment of travelling expenses, and that a member of that person’s family shall be similarly entitled. Regulations 4 and 5 amend regulations 6 and 7 of the principal Regulations to provide for assessment of that person’s capital in accordance with the principal Regulations in certain cases, and to provide that in such cases notice of entitlement to remission or payment claimed under the principal Regulations shall be effective until the award of disability working allowance current at the date of claim ceases to be payable.

Regulation 6 amends Table B in Part II of Schedule 1 to the principal Regulations, which governs the manner in which a person’s requirements are to be calculated, in consequence of the introduction of incapacity benefit.

Regulation 7 is a transitional provision which provides that claims for repayment of charges or expenses paid before 1st April 1995 shall be calculated as if these Regulations had not been made.