
STATUTORY INSTRUMENTS

1996 No. 429 (S.31)

NATIONAL HEALTH SERVICE, SCOTLAND

The National Health Service (Travelling
Expenses and Remission of Charges)
(Scotland) Amendment Regulations 1996

<i>Made</i>	- - - -	<i>25th February 1996</i>
<i>Laid before Parliament</i>		<i>27th February 1996</i>
<i>Coming into force</i>	- -	<i>19th March 1996</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 1996 and shall come into force on 19th March 1996.

(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.—(1) Regulation 2 of the principal Regulations (interpretation) shall be amended in accordance with the following provisions of this regulation.

(2) In paragraph (1)—

- (a) in the definition of “appropriate office” the words “Health and” shall be omitted;
- (b) for the definition of “date of claim” there shall be substituted the following definition—

(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), 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 regulations are S.I. 1990/551 and 1665, 1991/575, 1993/642 and 1995/700 and 2381.

““date of claim” means the date on which a claim made under regulation 7(1) or regulation 8(2) is received in an appropriate office or by the Secretary of State;”.

(3) After paragraph (3) there shall be inserted the following paragraph—

“(4) The Note following paragraph 7 of Schedule 1A shall have effect for the purposes of the interpretation of that Schedule.”.

Amendment of regulation 4 of the principal Regulations

3.—(1) Regulation 4 of the principal Regulations (descriptions of persons entitled to full remission and payment) shall be amended in accordance with the following provisions of this regulation.

(2) After paragraph (a) there shall be inserted the following paragraph—

“(aa) a person whose entitlement to income support is less than 10 pence, or”.

(3) After paragraph (b) there shall be inserted the following paragraph—

“(bb) a member of the same family as a person whose entitlement to income support is less than 10 pence, or”.

Amendment of regulation 5 of the principal Regulations

4. At the beginning of paragraph (5) of regulation 5 of the principal Regulations (persons entitled to remission in part or payment in part) there shall be inserted the words “Subject to regulation 5B,”.

Insertion of regulation 5B into the principal Regulations

5. After regulation 5A of the principal Regulations (payment of travelling expenses) there shall be inserted the following regulation—

“Payment to persons resident in the Highlands and Islands

5B.—(1) A person of the description prescribed in paragraph (3) who is not a person of a description prescribed by regulation 4 is entitled to payment of travelling expenses incurred or to be incurred in making a journey between his normal place of residence in the Highlands and Islands and a hospital in the United Kingdom for the purpose of availing himself of services provided under the care of a hospital consultant in pursuance of the Act, provided that—

- (a) the distance travelled from the person’s home (or place of residence while working) to the hospital must be 30 miles or more, or involve a journey by sea of more than 5 miles; and
- (b) the person shall make a contribution towards the travelling expenses of a level to be determined by the Secretary of State.

(2) The travelling expenses referred to in paragraph (1) include—

- (a) those of the return journey; and
- (b) those of a companion in a case where it is necessary on medical grounds that the person referred to in paragraph (1) should be accompanied.

(3) Paragraph (1) applies to a person who, at the time when the expenses referred to in paragraph (1) are incurred, is normally resident or working on a long-term basis in the area comprising—

- (a) the local government areas of Highland, Western Isles, Orkney Islands and Shetland Islands;

- (b) that part of the local government area of Argyll and Bute which is the area of the former Argyll and Bute District Council and the islands of Arran, Great Cumbrae and Little Cumbrae; and
- (c) in the local government area of Moray, the parishes of Aberlour, Cabrach, Dallas, Dyke, Edinkillie, Forres, Inveravon, Kinloss, Kirkmichael, Knockando, Mortlach, Rafford and Rothes.”.

Amendment of regulation 7 of the principal Regulations

6.—(1) Regulation 7 of the principal Regulations (claims for remission or payment) shall be amended in accordance with the following provisions of this regulation.

(2) At the beginning of paragraph (1) there shall be inserted the words “Subject to paragraph (1A),”.

(3) After paragraph (1) there shall be inserted the following paragraphs—

“(1A) Subject to paragraph (1B), where a person is unable for the time being to act, a claim may be made on his behalf by another person.

(1B) The Secretary of State may refuse to accept a claim made by one person on behalf of another where, in the Secretary of State’s opinion—

- (a) the person on whose behalf the claim is made is able to act; or
- (b) the person making the claim is not a suitable person to act on behalf of that other person.”.

(4) For paragraph (6) there shall be substituted the following paragraphs—

“(6) Subject to paragraphs (6A) and (8), a notice of entitlement issued under paragraph (4) shall be effective for a period of 6 months from the date of claim and shall specify the dates of commencement and expiry of that period.

(6A) Subject to paragraph (8), where a claimant or his partner is a person of a description specified in column (1) of Schedule 1A and the date of claim falls within any period specified in column (1), the notice of entitlement issued under paragraph (4) to that claimant shall be effective for the period specified in column (2) of that Schedule opposite the description in column (1) of that claimant or his partner.”.

Amendment of regulation 8 of the principal Regulations

7.—(1) Regulation 8 of the principal Regulations (repayment) shall be amended in accordance with the following provisions of this regulation.

(2) At the beginning of paragraph (2) there shall be inserted the words “Subject to paragraph (2A),”.

(3) After paragraph (2) there shall be inserted the following paragraphs—

“(2A) Subject to paragraph (2B), where a person is unable for the time being to act, a claim may be made on his behalf by another person.

(2B) The Secretary of State may refuse to accept a claim made by one person on behalf of another where, in the Secretary of State’s opinion—

- (a) the person on whose behalf the claim is made is able to act; or
- (b) the person making the claim is not a suitable person to act on behalf of that other person.”.

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

8.—(1) Table A of Part I of Schedule 1 to the principal Regulations⁽³⁾ (modifications of provisions of the Income Support (General) Regulations 1987) shall be amended in accordance with the following provisions of this regulation.

(2) At the end of the entry corresponding to regulation 30 the following shall be inserted in column (2)—

“As if in sub-paragraph (1)(a) at the beginning there were inserted the words “except where sub-paragraph (b) or (c) applies,”.

As if in sub-paragraph (1)(b) at the beginning there were inserted the words “except where sub-paragraph (c) applies,”.

As if after sub-paragraph (1)(b) the words “or” and the following new sub-paragraph were inserted—

- “(c) where the claimant provides in respect of the employment a profit and loss account and, where appropriate, a trading account or a balance sheet or both, and the profit and loss account is in respect of a period of at least 6 months but not exceeding 15 months and that period terminates within the twelve months preceding the date of claim or, as the case may be, the date when he paid the relevant charge or travelling expenses, over that period.”.

As if after paragraph (1) the following new paragraph were inserted—

“(1A) In paragraph (1)(c)—

- (a) “balance sheet” means a statement of the financial position of the employment disclosing its assets, liabilities and capital at the end of the period in question;
- (b) “profit and loss account” means a financial statement showing the net profit or loss of the employment for the period in question; and
- (c) “trading account” means a financial statement showing the revenue from sales, the cost of those sales and the gross profit arising during the period in question.”.

(3) After the entries for regulation 36 the following entries shall be inserted—

“Regulation 38(4)

As if in paragraph (3) for the words “paragraph (9)” there were substituted the words “paragraph (3A) or (9)”.

As if after paragraph (3) there were inserted—

“(3A) For the purpose of paragraph (1)(a), in a case where earnings of the employment are calculated over a period determined under regulation 30(1)(c), the net profit of the employment shall, except where paragraph (9) applies, be calculated by taking into account the earnings of the employment relevant to that period (whether or not received in that period), less—

- (a) subject to paragraphs (5) to (7), any expenses relevant to that period (whether or not defrayed in that

(3) Relevant amending instruments are S.I. 1990/551 and 1665 and 1995/2381.

(4) Relevant amending regulations are S.I. 1993/2119 and 1994/2139.

- period) and which were wholly and exclusively incurred for the purposes of that employment;
- (b) an amount in respect of—
- (i) income tax;
 - (ii) social security contributions payable under the Contributions and Benefits Act, calculated in accordance with regulation 39 (deduction of tax and contributions for self-employed earners); and
 - (iii) one half of any premium paid in the period that is relevant under regulation 30 in respect of a retirement annuity contract or a personal pension scheme.”.

As if in paragraph (4) after the word “shall” there were inserted the words “, except where paragraph (4A) or (9) applies.”.

As if after paragraph (4) there were inserted the following new paragraph—

“(4A) For the purposes of paragraph (1)(b), in a case where earnings of the employment are calculated over a period determined under regulation 30(1)(c), the net profit of the employment shall, except where paragraph (9) applies, be calculated by taking into account the earnings of the employment relevant to that period (whether or not received in that period) less, subject to paragraphs (5) to (7), any expenses relevant to that period (whether or not defrayed in that period) and which were wholly or exclusively incurred for the purposes of that employment.”.

As if in paragraphs (5), (6), (7) and (8) for the words “paragraph (3)(a) or (4)” there were substituted the words “paragraphs (3)(a), (3A) (a), (4) or (4A), as the case may be,”.

(4) After the fifth entry corresponding to Schedule 9 the following entry shall be inserted in column (2)—

“As if for sub-paragraph (1) of paragraph 29 the following sub-paragraph was substituted—

“(1) Subject to sub-paragraph (2), any payment received under an insurance policy taken out to insure against the risk of being unable to maintain payments of housing costs which qualify under paragraph 17(1)(zb) or (zc) of Schedule 3 or for repairs or improvements to the dwelling occupied as the home to the extent that it is used to meet—

- (a) repayments of unsecured loans for the purpose of carrying out repairs and improvements to the dwelling occupied as the home;
- (b) any amount due by way of premiums on that policy.”.”.

Amendment of Table B of Part II of Schedule 1 to the principal Regulations

9.—(1) Table B of Part II of Schedule 1 to the principal Regulations shall be amended in accordance with the following provisions of this regulation.

(2) At the end of the entry corresponding to regulation 3 the following shall be inserted in column (2)—

“As if in paragraph (2B) the words “Subject to paragraph (2C),” were omitted.

As if paragraph (2C) were omitted.”.

(3) In the first entry in column (2) corresponding to Schedule 2(5) for head (a) the following head shall be substituted—

“(a) except where heads (b) or (c) of this sub-paragraph apply, less than 18;”.

(4) For the second entry in column (2) corresponding to Schedule 2(6) the following entry shall be substituted—

“As if in column 1 of that Table for both sub-paragraphs (1)(c) and (2)(c) there were substituted in each case the following sub-paragraph—

“(c) less than 18 who—

- (i) satisfies the condition in paragraph 11;
- (ii) is undergoing youth training; or
- (iii) is in remunerative work;”.”.

(5) After the second entry in column (2) corresponding to Schedule 2 the following entry shall be inserted—

“As if for head (c) of sub-paragraph (3) in column 1 of that Table there were substituted the following head—

“(c) where both members are aged—

- (i) not less than 18; or
- (ii) less than 18 where—
 - (za) at least one of them is undergoing youth training;
 - (zb) at least one of them is in remunerative work;
 - (zc) in respect of at least one of them an amount is applicable under paragraph 2;
 - (zd) at least one of them satisfies the condition in paragraph 11; or
 - (ze) in respect of at least one of them an amount is applicable under Schedule 3;”.”.

(6) After the fifth entry in column (2) corresponding to Schedule 2 the following entry shall be inserted—

“As if in paragraph 11(b)(ii)(7) for the words “12(1)(a) or (c)” there were substituted the words “12(1)(a), (b) or (c).”.”.

(5) Relevant amending instrument is S.I. [1995/559](#).

(6) Relevant amending instrument is S.I. [1995/559](#).

(7) Relevant amending instrument is S.I. [1988/663](#).

(7) For the seventh entry in column (2) corresponding to Schedule 2 the following entry shall be substituted—

“As if in paragraph 12(1)(b)(8)—

- (a) after the words “the claimant” there were inserted the words “or, as the case may be, his partner”; and
- (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;”.

(8) For the entries in column (2) corresponding to Schedule 3(9) the following entries shall be substituted—

“As if in paragraph 1—

- (a) in sub-paragraph (1)(b) for the words “paragraphs 15 to 17” there were substituted the words “paragraph 17”; and
- (b) for sub-paragraph (2), the following sub-paragraphs were substituted—
 - “(2) In this Schedule “period of study” has the meaning specified in regulation 61 (student interpretation).”.

As if in paragraph 2—

- (a) in sub-paragraph (1) for head (c) the following head were substituted—
 - “(c) he in practice shares the housing costs with other members of the household where no member of that household who is liable to meet those costs is a close relative of the claimant or his partner and it is reasonable in the circumstances that the claimant should be treated as sharing responsibility for those costs.”; and
- (b) sub-paragraph (2) were omitted.

As if in paragraph 3—

- (a) sub-paragraphs (8) to (10) were omitted;
- (b) in sub-paragraph (11)(c)(ix) the words “other than a person to whom sub-paragraph (8) applies” were omitted; and
- (c) in sub-paragraph (12) for the words “not exceeding” there shall be substituted the words “which is not likely to exceed”.

As if for paragraph 4 the following paragraph were substituted—

“Housing costs not met under this Schedule

4. No amount may be met under the provisions of this Schedule where the claimant is in accommodation which is a residential care home or a nursing home except where he is in such accommodation during a temporary absence from the dwelling he occupies as his home and, in so far as they relate to temporary absences, the provisions of paragraph 3(11) and (12) apply to him during that absence.”.

As if paragraphs 6 to 16 were omitted.

As if in paragraph 17—

- (a) in the cross heading for the word “Other” there were substituted the word “Qualifying”;
- (b) in sub-paragraph (1)—

(8) Relevant amending instrument is S.I. 1995/482.

(9) Schedule 3 was substituted by S.I. 1995/1613.

- (i) the following new heads were inserted immediately before head (a)—
 - “(za) any periodical payment which a person is liable to make by way of rent in respect of the dwelling he occupies as his home;
 - (zb) payments of interest and capital—
 - (i) of a mortgage or loan secured on the dwelling occupied as the home;
 - (ii) under a hire purchase agreement or other loan to buy the dwelling occupied as the home;
 - (iii) in respect of a loan taken out to adapt the dwelling occupied as the home for the special needs of a disabled person;
 - (zc) payments in respect of an endowment policy in connection with the purchase of the dwelling occupied as the home;”;
- (ii) head (f) were omitted;
- (c) in sub-paragraph (2)—
 - (i) for the words from “Subject to” to “amounts” there shall be substituted the words “Subject to sub-paragraphs (3), (3A) and (3B), the deductions to be made from the weekly amounts in respect of the housing costs specified in heads (za) and (a) to (e) of sub-paragraph (1)”;
 - (ii) in head (a) the words from “unless the claimant” to the end of the head shall be omitted; and
 - (iii) head (c) shall be omitted;
- (d) in sub-paragraph (3) at the beginning there shall be inserted the words “Subject to sub-paragraphs (3A) and (3B),”;
- (e) after sub-paragraph (3) there shall be inserted the following new sub-paragraphs—
 - “(3A) Subject to sub-paragraph (3B), where arrangements are made for the housing costs mentioned in heads (za) and (a) to (e) of sub-paragraph (1) payable in respect of a period of study, to be paid irregularly, or so that—
 - (a) no such costs are payable for or collected in the Christmas or Easter vacations within a period of study, or
 - (b) the costs in respect of the Christmas or Easter vacations within a period of study vary from those in the rest of that period of study,
 the weekly amount shall be the amount payable in respect of a period of study divided by the number of weeks in that period of study.
 - (3B) Where housing costs, to be calculated in accordance with sub-paragraph (3A), are subject to a deduction in accordance with sub-paragraph (2)(a) or (b), as the case may be, the weekly amount of the deduction shall be the proportion of the deduction calculated in accordance with sub-paragraph (2)(a) or (b), as the number of weeks in the period of study, excluding Christmas and Easter vacations, bears to the number of weeks in the period of study.”.

As if in paragraph 18, in sub-paragraph (7)—

- (a) head (e) were omitted; and
- (b) for head (f) the following head were substituted—
 - “(f) to whom paragraph (2B) of regulation 3 (definition of non-dependant) would apply;”.

Insertion of Schedule 1A into the principal Regulations

10. After Schedule 1 to the principal Regulations there shall be inserted as Schedule 1A the Schedule set out in the Schedule to these Regulations.

Revocation

11. The National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Amendment (No.2) Regulations 1995(**10**) are revoked.

St Andrew's House,
Edinburgh
25th February 1996

James Douglas-Hamilton
Minister of State, Scottish Office

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SCHEDULE

Regulation 10

SCHEDULE 1A TO THE PRINCIPAL REGULATIONS ADDED BY THESE REGULATIONS

“SCHEDULE 1A

Regulation 7(6A)

PERIODS OF VALIDITY OF NOTICES OF ENTITLEMENT

(1) Description of claimant or his partner and period in which claim made	(2) Period of effectiveness of notice of entitlement
1. A person whose entitlement to income support is less than 10p.	6 months from the date on which income support would have been payable if any had been payable.
2. A person in receipt of disability working allowance whose capital does not exceed £8,000.	The period starting on the date of claim and ending on the expiry of the award of disability working allowance.
3. A person who is not, and does not have a partner who is, engaged in remunerative work and who—	12 months from the date of claim.
<p>(a) is aged 60 or over; or</p> <p>(b) is entitled to a disability premium determined in accordance with paragraphs 11 and 12 of Schedule 2 to the Income Support (General) Regulations 1987(11).</p>	
4. A person who is not, and does not have a partner who is, engaged in remunerative work as an employed earner and who is engaged in remunerative work as a self-employed earner who has earnings as a self-employed earner calculated in accordance with the provisions of regulation 30(1) of the Income Support (General) Regulations 1987(12) as modified for the purposes of these Regulations in Table A of Part I of Schedule 1.	13 months from the date of claim.
<p>NOTE: For the purposes of this Schedule—</p> <p>“employed earner” and “self-employed earner” shall be construed in accordance with section 2(1) of the Social Security Contributions and Benefits Act 1992(13);</p> <p>“period of study” has the meaning assigned to it by regulation 61 of the Income Support (General) Regulations 1987(14);</p> <p>“remunerative work” has the meaning assigned to it by regulation 5(1) of the Income Support (General) Regulations 1987(15).</p>	

(11) S.I. 1987/1967; relevant amending instruments are S.I. 1988/63 and 2022, 1989/1678, 1991/2742, 1994/2139, 1995/482, 516 and 2303.

(12) Relevant amending instrument is S.I. 1993/2119.

(13) 1992 c. 4.

(14) Relevant amending instrument is 1993/2119.

(15) Relevant amending instruments are S.I. 1988/663, 1445 and 2022, 1989/1323, 1990/547, 1991/1559, 1992/468, 1993/2119 and 1995/516.

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(1) Description of claimant or his partner and period in which claim made	(2) Period of effectiveness of notice of entitlement
<p>5. A student who is, or whose partner is, engaged in remunerative work, and the claim is made during a period of study falling within the final or only year of that student’s course.</p>	<p>The period starting on the date of claim and ending— (a) 6 months after that date; or (b) on the last day of the course of study, whichever is the earlier.</p>
<p>6. A student who is not, and whose partner is not, engaged in remunerative work and the claim is made during a period of study falling within the final or only year of that student’s course.</p>	<p>The period starting on the date of claim and ending on the last day of the course.</p>
<p>7. A student who is not, and whose partner is not, engaged in remunerative work, and the claim is made during a period of study falling outside the final or only year of that student’s course.</p>	<p>The period starting on the date of claim and ending— (a) 1 month later than the first day of the next period of study; or (b) 6 months after that date, whichever is the later.”</p>

NOTE: For the purposes of this Schedule—
 “employed earner” and “self-employed earner” shall be construed in accordance with section 2(1) of the Social Security Contributions and Benefits Act 1992(13);
 “period of study” has the meaning assigned to it by regulation 61 of the Income Support (General) Regulations 1987(14);
 “remunerative work” has the meaning assigned to it by regulation 5(1) of the Income Support (General) Regulations 1987(15)..

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 amends the definition of “appropriate office” and substitutes a new definition of “date of claim”.

Regulation 3 amends regulation 4 of the principal Regulations so as to include in the list of descriptions of persons entitled to full remission and payment persons entitled to less than 10p income support (and who therefore do not actually receive income support).

(13) 1992 c. 4.

(14) Relevant amending instrument is 1993/2119.

(15) Relevant amending instruments are S.I. 1988/663, 1445 and 2022, 1989/1323, 1990/547, 1991/1559, 1992/468, 1993/2119 and 1995/516.

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Regulation 4 amends regulation 5(5) so that travelling expenses of residents of the Highlands and Islands who are entitled to payments in part are determined under a new regulation 5B which is inserted by regulation 5.

Regulation 6 amends regulation 7 to provide for the making of claims for the remission of any relevant charges and the payment of relevant travelling expenses on behalf of persons who are unable to act for themselves. Regulation 6 also provides for the periods for which notices of entitlement are to be effective and it introduces a new regulation 7(6A) which makes new provision in respect of the periods of effectiveness of notices of entitlement issued to particular descriptions of persons. For example, in the case of persons such as those aged 60 or more whose circumstances are likely to be stable throughout the period of effectiveness of notices of entitlement issued to them, those periods are lengthened beyond the standard length of 6 months provided for by regulation 7(6).

Regulation 7 amends regulation 8 to provide for the making of claims for repayment of any relevant charges or relevant travelling expenses on behalf of persons who are unable to act for themselves.

Regulation 8 amends Table A of Part 1 of Schedule 1 to the principal Regulations which provides for the calculation of a claimant's resources. Regulation 9 amends Table B of Part II of that Schedule which provides for the calculation of a claimant's requirements. The amendments to Tables A and B are made in consequence of changes to the Income Support (General) Regulations 1987, and in order to provide for the calculation of self-employed earnings on an accruals basis; a standard deduction in respect of fuel charges included in rent; student rents to be averaged over a period of study; and to provide for youth trainees aged 16 and 17 to receive the personal allowance applicable to those aged 18 or over.

Regulation 10 inserts a new Schedule 1A which specifies the periods for which notices of entitlement referred to in new regulation 7(6A) are effective.

Regulation 11 revokes the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Amendment (No.2) Regulations 1995 as they are superseded by these Regulations.