
STATUTORY INSTRUMENTS

1997 No. 1012 (S.90)

NATIONAL HEALTH SERVICE, SCOTLAND

The National Health Service (Travelling
Expenses and Remission of Charges)
(Scotland) Amendment Regulations 1997

Made - - - - 19th March 1997

Laid before Parliament 21st March 1997

Coming into force

*except for the purposes of
regulation 6(2)(a)*

1st April 1997

*for the purposes of
regulation 6(2)(a)*

*in accordance with
regulation 1(1)(b)*

The Secretary of State, in exercise of the powers conferred on him by sections 75A, 105(7) 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 1997 and shall come into force—

- (a) except for the purposes of regulation 6(2)(a), on 1st April 1997; and
- (b) for the purposes of regulation 6(2)(a), on 7th April 1997 immediately after the coming into force of regulation 2 of the Income-related Benefits and Jobseeker's Allowance (Personal Allowances for Children and Young Persons) (Amendment) Regulations 1996(2) in so far as it amends provisions relating to income support and jobseeker's allowance.

(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.1996/2545.

(2) In these Regulations “the principal Regulations” means the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 1988(3).

Amendment of regulation 2 of the principal Regulations

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

- (a) after the definition of “family credit” there shall be inserted the following definition:–
““full rate” means the rate determined under section 26(2) of the National Assistance Act 1948(4);”;
- (b) after the definition of “NHS Trust” there shall be inserted the following definition:–
““nursing home” has the meaning assigned to it by regulation 19(3) of the Income Support (General) Regulations 1987(5);”;
- (c) after the definitions of “relevant charges” and “relevant travelling expenses” there shall be inserted the following definitions:–
““residential care home” has the meaning assigned to it by regulation 19(3) of the Income Support (General) Regulations 1987(6);
“standard rate” means the standard rate fixed in accordance with section 22(2) of the National Assistance Act 1948(7);”.

Amendment of regulation 4 of the principal Regulations

3. At the end of regulation 4 of the principal Regulations (description of persons entitled to full remission and payment)(8) there shall be added– “or

- (m) a person who lives permanently in accommodation provided by a local authority under the Social Work (Scotland) Act 1968(9) and who has satisfied the authority that he is unable to pay for that accommodation at the standard rate or, as the case may be, the full rate, and for the purposes of this paragraph a person lives permanently in such accommodation if it is his principal place of abode.”.

Amendment of regulation 7 of the principal Regulations

4. For paragraph (1) of regulation 7 of the principal Regulations (claims for remission or payment) there shall be substituted–

- “(1) Subject to paragraph (1A), a person who falls within sub-paragraph (a) or (b) below and who wishes to claim his entitlement under regulation 3(1) or 5(1) (full or partial remission of relevant charges or payment of relevant travelling expenses) shall, if he is a person–
- (a) within a description prescribed by regulation 4(aa), (bb), (k) or (l), make a claim to the Secretary of State in writing; or
- (b) within a description prescribed by regulation 4(e), (f) or (m), or 5(1), make a claim to the Secretary of State on a form provided by or on behalf of the Secretary of State for that purpose,

(3) S.I. 1988/546; relevant amending instruments are S.I. 1990/551 and 1665, 1991/575, 1993/642 and 2049, 1995/700 and 2381, 1996/429 and 2391.

(4) 1948 c. 29; section 26(2) was amended by section 42(3) of, and paragraph 5(5) of Schedule 9 and Schedule 10 to, the National Health Service and Community Care Act 1990 (c. 19).

(5) S.I. 1987/1967.

(6) The definition in regulation 19(3) was amended by S.I. 1988/663, 1445, 2022, 1992/3147 and 1993/2119.

(7) Section 22(2) was amended by section 44(3) of the National Health Service and Community Care Act 1990 (c. 19).

(8) Paragraphs (i) to (l) were substituted in regulation 4 by S.I. 1996/2391.

(9) 1968 c. 49.

and shall send or deliver that claim in writing or, as the case may be, that form, to an appropriate officer or to the Secretary of State.”.

Amendment of Schedule 1 to the principal Regulations

5.—(1) Table A of Part I of Schedule 1 to the principal Regulations (modification of provisions of the Income Support (General) Regulations 1987⁽¹⁰⁾) shall be amended in accordance with the following provisions of this regulation.

(2) The following entries shall be inserted in the appropriate places:—

- (a) in column (1) “regulations 62(3A), 63(2), and 64(1)(c)”, and
- (b) in column (2) opposite the entry referred to in sub-paragraph (a) above “As if the words “or, if there are 53 benefit weeks (including part-weeks) in the year, 53” were omitted.”.

(3) In the corresponding entries in column (2) relating to the entry “Schedule 8” in column (1) there shall be inserted in the appropriate places the following entries:—

- (a) “As if in paragraph 4(2) after the words “disability premium” the words “or higher pensioner premium” were inserted.”;
- (b) “As if sub-paragraphs (3), (4), (5), (6) and (7) of paragraph 4 were omitted.”;
- (c) “As if in paragraph 5 after the words “or but for the” the word “higher” were inserted.”;
- (d) “As if in paragraph 8 the words “part time” were omitted.”; and
- (e) “As if paragraph 16 were omitted.”.

Further amendments of Schedule 1 to the principal Regulations

6.—(1) Table B of Part II of Schedule 1 to the principal Regulations (further modification of provisions in the Income Support (General) Regulations 1987) shall be amended in accordance with the following provisions of this regulation.

(2) In the corresponding entries in column (2) relating to the entry “Schedule 2” in column (1) there shall be inserted in the appropriate places the following entries:—

- (a) “As if in paragraph 2—
 - (a) in sub-paragraph (1) the words “for the relevant period specified in column (1)” were omitted;
 - (b) for column (1) there were substituted—
 - (a) less than 11;
 - (b) not less than 11 but less than 16;
 - (c) not less than 16 but less than 19”;
 - (c) sub-paragraph (2) were omitted.”;
- (b) “As if paragraph 9 were omitted.”;
- (c) “As if paragraph 9A⁽¹¹⁾ were omitted.”;
- (d) “As if for paragraph 10 there were substituted—

“**10.**—(1) Where the claimant is a single claimant or a lone parent, the condition is that he is aged not less than 60;

⁽¹⁰⁾ S.I. 1987/1967.

⁽¹¹⁾ Paragraph 9A was inserted by S.I. 1989/534.

- (2) Where a claimant has a partner, the condition is that he or his partner is aged not less than 60.”
- (e) “As if for sub-paragraph (b) of paragraph 11 there were substituted—
- “(b) where the claimant has a partner and both are aged less than 60 and the additional condition specified in paragraph 12 is satisfied by at least one of them;”;
- (f) “As if in paragraph 12 sub-paragraphs (1)(c) and (4) were omitted.”; and
- (g) “As if in paragraph 15 sub-paragraphs (2) and (2A)(12) were omitted.”.
- (3) In the corresponding entries in column (2) relating to the entry “Schedule 3” in column (1), at the end of the entry which relates to paragraph 1 there shall be added the following entry:—
- “(c) for sub-paragraph (3) there were substituted—
- (3) For the purposes of this Schedule a disabled person is a person—
- (a) (i) who satisfies a condition specified in paragraph 12(1)(a) or (b) of Schedule 2; and
- (ii) whose capital does not exceed the capital limit; or
- (b) (i) who is aged 75 or over; and
- (ii) whose capital does not exceed the capital limit; or
- (c) in respect of whom a disabled child premium is included in his applicable amount or the applicable amount of a person living with him.”.

Amendment of Schedule 1A to the principal Regulations

7. After paragraph 8 of Schedule 1A to the principal Regulations (periods of validity of notices of entitlement)(13) there shall be added the following paragraph:—

 “9. A person who lives in a residential care home or nursing home or in accommodation provided by a local authority under the Social Work (Scotland) Act 1968. 12 months from the date of claim.”.

St Andrew’s House,
Edinburgh
19th March 1997

James Douglas-Hamilton
Minister of State, Scottish Office

(12) Sub-paragraph (2A) was inserted by S.I. 1989/534.

(13) Schedule 1A was added by S.I. 1996/429 and was amended by S.I. 1996/2391.

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.

They add to the list of persons eligible for remission or payment of charges in full persons living in accommodation provided by, or under arrangements made with, a local authority who are unable to pay for that accommodation at the standard rate fixed by the authority or the full rate determined under the arrangements; specify that a notice of entitlement in respect of persons in local authority accommodation or a person living in a residential care home or nursing home is effective for a period of twelve months from the date of claim; and define the expressions “standard rate”, “full rate”, “nursing home” and “residential care home” (regulations 2, 3 and 7).

The Regulations require a person whose entitlement to income support or income-based jobseeker’s allowance is less than ten pence to make a claim in writing and a person in local authority accommodation to claim on a form provided for that purpose (regulation 4).

They also amend Schedule 1 to make further modifications to those provisions of the Income Support (General) Regulations 1987 by reference to which a person’s resources and requirements are calculated. In particular the amendments provide—

- that income is calculated on the basis of there being 52 weeks in the year;
- that the Higher Pension Premium is applicable to single claimants and lone parents aged at least 60, and in the case of couples where at least one is aged at least 60;
- that there shall be a single allowance applicable for young persons aged at least 16 and under 19, who are in full-time education;
- for certain earnings to be disregarded (regulations 5 and 6).

These Regulations do not impose a charge on business.