
STATUTORY INSTRUMENTS

1998 No. 642 (S.23)

NATIONAL HEALTH SERVICE, SCOTLAND

**The National Health Service (Optical Charges
and Payments) (Scotland) Regulations 1998**

<i>Made</i>	- - - -	<i>5th March 1998</i>
<i>Laid before Parliament</i>		<i>11th March 1998</i>
<i>Coming into force</i>	- -	<i>1st April 1998</i>

The Secretary of State, in exercise of the powers conferred on him by sections 26, 70(1), 73(a), 74(a), 105 and 108(1) of, and paragraphs 2 and 2A of Schedule 11 to, the National Health Service (Scotland) Act 1978(1) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

PART I
GENERAL

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Optical Charges and Payments) (Scotland) Regulations 1998 and shall come into force on 1st April 1998.

(2) In these Regulations, unless the context otherwise requires—

“the Act” means the National Health Service (Scotland) Act 1978;

“capital limit” means the amount prescribed for the purposes of section 134(1) of the Social Security Contributions and Benefits Act 1992(2) as it applies to income support;

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- (1) 1978 c. 29; section 26 was amended by the Health and Social Security Act 1984 (c. 48) (“the 1984 Act”), section 1(5) and Schedule 1, Part II paragraphs 1 to 4 and Schedule 8 and by the Health and Medicines Act 1988 (c. 49) (“the 1988 Act”), section 13(4); section 70(1) was amended by the 1988 Act, Schedule 3; section 105, which contains provisions relevant to the making of regulations, amended by the Health Service Act 1980 (c. 53), Schedule 6, paragraph 5; 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 1984 Act, Schedule 1, Part II, paragraph 7 and amended by the 1988 Act, section 13(2) and (5).
- (2) 1992 c. 4. The capital limit is prescribed for the purposes of income support in regulation 45 of S.I. 1987/1967. Whilst £8,000 is applicable in most cases there is a limit of £16,000 in certain cases prescribed in regulation 53(1B) of these Regulations. Regulation 45 was substituted by regulation 12(1)(a) of S.I. 1996/462, regulation 12(1)(b)(ii) of which also added regulation 53(1B).

“child” means a person who is under the age of 16 years;

“complex appliance” means an optical appliance at least one lens of which—

- (a) has a power in any one meridian of plus or minus 10 or more dioptres, or
- (b) is a prism-controlled bifocal lens;

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

“eligible person” is to be construed—

- (a) for the purposes of Part III, in accordance with regulation 3(2);
- (b) for the purposes of Parts IV and V, in accordance with regulation 8(2) to (5);

“face value” means, in relation to a voucher on which is marked a letter code specified in column 2 of Schedule 1, the amount specified in relation to it in column 3 of that Schedule, plus the amount of any increase provided for by paragraph 1 of Schedule 3;

“family credit” means family credit under Part VII of the Social Security Contributions and Benefits Act 1992;

“income-based jobseeker’s allowance” has the meaning given to it by section 1(4) of the Jobseekers Act 1995⁽³⁾;

“income support” means income support under Part VII of the Social Security Contributions and Benefits Act 1992;

“Health Board” means a Health Board constituted under section 2 of the Act;

“minimum complex appliance payment” means, in relation to an optical appliance, the amount specified as such for the appliance in paragraph 2 of Schedule 3;

“NHS sight test fee” means, in relation to a testing of a patient’s sight carried out either by an ophthalmic medical practitioner or by an optician—

- (a) at a place where the patient normally resides, an amount of £39.04; or
- (b) in any other case, an amount of £14.10;

“notice of entitlement” means a notice issued under regulation 7 of the Remission Regulations for the purposes of remission of charges under the Act;

“ophthalmic list” means a list, prepared and published pursuant to regulations made under section 26(2) of the Act of medical practitioners and opticians who undertake to provide general ophthalmic services⁽⁴⁾;

“Ophthalmic Services Regulations” means the National Health Service (General Ophthalmic Services) (Scotland) Regulations 1986⁽⁵⁾;

“optician” means an ophthalmic optician;

“patient” means a person whose sight has been tested whether under the Act or otherwise;

“patient’s contribution” is to be construed as follows—

- (a) for the purposes of Parts III, IV and V, where a patient’s resources are less than his requirements, the contribution shall be nil;
- (b) for the purposes of Part III, where the patient’s resources exceed his requirements, the contribution shall be an amount equal to that excess;
- (c) for the purposes of Parts IV and V, where the patient’s resources exceed his requirements, the contribution shall be an amount equal to twice that excess;

⁽³⁾ 1995 c. 18.

⁽⁴⁾ See S.I. 1986/965, regulation 6.

⁽⁵⁾ S.I. 1986/965, amended by S.I. 1988/543, 1989/387 and 1177, 1990/1048, 1991/534, 1995/704, 1996/843 and 2353.

“patient’s resources” means a person’s resources as calculated in accordance with regulation 6 of, and Schedule 1 to, the Remission Regulations;

“redemption value” is to be construed—

- (a) for the purposes of Part III, in accordance with regulation 7;
- (b) for the purposes of Part IV, in accordance with regulation 14;
- (c) for the purposes of Part V, in accordance with regulation 19;

“the 1989 Regulations” means the National Health Service (Optical Charges and Payments) (Scotland) Regulations 1989⁽⁶⁾;

“the Remission Regulations” means the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 1988⁽⁷⁾ and a reference to those Regulations is to be construed as a reference to them as they have effect on the making of these Regulations and as amended subsequently;

“replacement” does not include the replacement of an optical appliance rendered unserviceable by fair wear and tear;

“responsible authority” means—

- (a) in relation to a voucher completed pursuant to regulation 4, the Health Board for the area in which the testing of sight to which it relates takes place;
- (b) in relation to a voucher issued pursuant to regulation 9 or completed pursuant to regulation 16, the Health Board for the area in which the supply, replacement or repair of the optical appliance to which it relates takes or is to take place;
- (c) in relation to a voucher issued pursuant to regulation 10 or completed pursuant to regulation 16 by a Health Board, the Health Board which issues or completes it;
- (d) in relation to a voucher issued pursuant to regulation 10 or completed pursuant to regulation 16 by an NHS trust⁽⁸⁾, the Health Board in whose area the patient resides; and
- (e) in relation to a payment made pursuant to regulation 6, the Health Board for the area in which the testing of sight took place;
- (f) in relation to a payment made pursuant to regulation 20 otherwise than by an NHS trust, the Health Board for the area in which the supply, replacement or repair of the optical appliance to which it relates took place;
- (g) in relation to a payment made pursuant to regulation 20 by an NHS trust, the Health Board in whose area the patient resides;

“small glasses” means glasses the lens apertures of which have datum centres not more than 56 millimetres apart; and for this purpose “datum centre” is to be construed in accordance with Part I of British Standard 3521: 1991 (Glossary of Terms relating to Ophthalmic Lenses and Spectacles Frames) published by the British Standard Institution as effective on 5th March 1998;

“supplier” includes a person replacing or repairing an optical appliance;

“supply” includes the replacement of an optical appliance rendered unserviceable by fair wear and tear;

“voucher” for the purposes of enabling a payment to be made under these Regulations means—

(6) S.I. 1989/392.

(7) S.I. 1988/546, amended by S.I. 1989/393 and 616, 1990/551, 917 and 1665, 1991/575, 1992/574, 1993/642 and 2049, 1995/700 and 2381, 1996/429 and 2391 and 1997/1012 and 2455.

(8) See for the definition of “NHS Trust” section 108(1) of the National Health Service (Scotland) Act 1978 (c. 29), amended by National Health Service and Community Care Act 1990 (c. 19), Schedule 9, paragraph 19.

- (a) in Part III, a voucher form supplied by the Secretary of State to those whose names are included in an ophthalmic list;
 - (b) in Part IV, a voucher form supplied—
 - (i) where a testing of sight is carried out otherwise than by a Health Board or NHS trust by the Secretary of State to the person who carries it out;
 - (ii) where a testing of sight is carried out by a Health Board or NHS trust, by the Health Board or NHS trust;
 - (iii) for the purpose of regulation 11, by the Health Board to whom the application is made;
 - (c) in Part V, a voucher form supplied to the supplier by the Secretary of State;
- (3) For the purposes of Schedule 1—
- (a) where an optical appliance has lenses described in different paragraphs in column 1 of Schedule 1, the face value of a voucher for the appliance shall be determined according to whichever lens would provide the greater face value; and
 - (b) where an optical appliance has a bifocal lens, the power of the lens shall be determined according to the power of that segment of the lens designed to correct a defect in distant sight; and
 - (c) a monocle shall be treated as though it were glasses.
- (4) In these Regulations, unless the context otherwise requires, a reference—
- (a) to a numbered regulation, Part or Schedule is to the regulation in, Part of, or Schedule to, these Regulations bearing that number;
 - (b) in a regulation to a numbered paragraph is to the paragraph in that regulation bearing that number;
 - (c) in Schedule 1 to a numbered paragraph is to the paragraph in column 1 in that Schedule bearing that number.

PART II

CHARGES

Charges for glasses and contact lenses

2.—(1) A charge of such sum as may be determined by or in accordance with directions given by the Secretary of State shall be made and recovered in accordance with paragraph (2) in respect of the supply of glasses and contact lenses under the Act.

(2) Where a charge is payable by virtue of paragraph (1) the Health Board or NHS trust, or other person on its behalf, that supplies or is to supply the glasses or contact lenses may—

- (a) on arranging to supply the glasses or contact lenses, make the charge; and
- (b) on supplying the glasses or contact lenses or having them available for supply, recover the charge from the patient (if it has not previously been paid).

PART III

PAYMENTS TOWARDS FOR COST OF SIGHT TESTS

Eligibility – sight tests

3.—(1) A payment shall be made as provided for by this Part of these Regulations to contribute to the cost of a testing of sight which the responsible authority accepts as having been incurred by an eligible person.

(2) An eligible person is a person whose income resources, as calculated in accordance with regulation 6 of, and Schedule 1 to, the Remission Regulations for the purposes of remission of charges under the Act, exceed his requirements as so calculated, but whose patient's contribution does not exceed the NHS sight test fee and whose capital resources as so calculated do not exceed the capital limit.

Completion and use of voucher – sight tests

4.—(1) A person who wishes a payment to be made by virtue of this regulation in his case shall—

- (a) apply to the Secretary of State for a notice of entitlement;
- (b) apply for his sight to be tested by an ophthalmic medical practitioner or optician whose name is included in an ophthalmic list;
- (c) indicate to that practitioner or optician that he is an eligible person at the time of the application; and
- (d) show to him a current notice of entitlement and permit him to copy such details as may be required for the purposes of regulation 5(2)(b)(ii).

(2) The ophthalmic medical practitioner or optician may then duly complete the relevant parts of the voucher with the name and address of the patient, the patient's date of birth and the date of testing of sight.

(3) The person whose sight is or is to be tested shall sign on the voucher a declaration in writing to the effect that he is an eligible person.

(4) The ophthalmic medical practitioner or optician may use the voucher as being in substitution for payment by the patient of an amount equal to its redemption value, being part of the cost incurred for the testing of sight.

Payments to sight testers

5.—(1) The responsible authority shall, if the conditions specified in paragraph (2) are fulfilled, make a payment of the voucher's redemption value to an ophthalmic medical practitioner or optician who has used a voucher in accordance with regulation 4(4).

(2) The conditions specified in paragraph (1) are that—

- (a) the patient has signed the declaration referred to in regulation 4(3);
- (b) the ophthalmic medical practitioner or optician has—
 - (i) made a claim for a payment on a duly completed voucher to the responsible authority within the period of three months beginning with the date of the testing of sight, and
 - (ii) informed the responsible authority of the amount of the patient's contribution.

Payments to patients in respect of sight tests

6.—(1) A payment may be made under this regulation by the responsible authority to an eligible person who incurs the cost of a testing of sight by an ophthalmic medical practitioner or optician whose name is included in an ophthalmic list, without a voucher being completed in accordance with regulation 4.

(2) A patient who wishes to receive a payment under this regulation must—

- (a) make a claim to the Secretary of State for a payment within three months after the date of the sight test, or within such further period as the Secretary of State may for good cause allow, and that claim must be made on a form provided by or on behalf of the Secretary of State for that purpose; and
- (b) produce such evidence as the Secretary of State may reasonably require in support of the claim including the receipt for any fee paid for the testing of sight.

(3) Where the Secretary of State is satisfied that the patient is entitled to a payment under paragraph (1) he shall authorise in writing the payment of the amount in question to the patient by the responsible authority.

(4) On receipt of an authorisation under paragraph (3) the responsible authority shall make a payment to the patient of an amount equal to the redemption value of the voucher which could have been completed under regulation 4 if the patient had satisfied the requirements of regulation 4(1).

Redemption value of voucher for sight tests

7. For the purposes of this Part of these Regulations the redemption value of a voucher is the amount, if any, by which the patient's contribution falls short of the lesser of—

- (a) the NHS sight test fee; or
- (b) the full cost which would have been incurred by the patient for the sight test but for these Regulations.

PART IV**PAYMENTS FOR COST OF SUPPLY OF OPTICAL APPLIANCES****Eligibility – supply of optical appliances**

8.—(1) A payment shall be made as provided for by this Part of these Regulations to meet, or to contribute towards, the cost incurred (whether by way of charge under the Act or otherwise) for the supply of an optical appliance for which a prescription has been given in consequence of a testing of sight of an eligible person—

- (a) which took place under the Act; or
- (b) which took place otherwise than under the Act and within the Health Board area in which the person whose sight was tested normally resides.

(2) An eligible person is a person who at the time of the supply of the optical appliance is any of the following:—

- (a) a child;
- (b) a person under the age of 19 years and receiving qualifying full-time education within the meaning of paragraph 7 of Schedule 11 to the Act⁽⁹⁾;

(9) Paragraph 7 was substituted by the Health Services Act 1980 (c. 53), Schedule 5, Part II, paragraph 8.

- (c) a person whose resources are treated, in accordance with paragraph (3), as being less than his requirements;
 - (d) a person whose income resources, as calculated in accordance with regulation 6 of, and Schedule 1 to, the Remission Regulations for the purposes of remission of charges under the Act, are equal to or exceed his requirements as so calculated but whose patient's contribution is nil or is less than the face value of a voucher issued to him under this Part of these Regulations and whose capital resources do not exceed the capital limit;
 - (e) a person to whom a prescription is issued for a complex appliance.
- (3) A person's resources shall be treated as being less than his requirements if—
- (a) he is in receipt of income support;
 - (b) he is a member of the same family as a person who is in receipt of income support;
 - (c) he is in receipt of family credit;
 - (d) he is a member of the same family as a person who is in receipt of family credit;
 - (e) his income resources as calculated in accordance with regulation 6 of, and Schedule 1 to, the Remission Regulations for the purposes of remission of charges under the Act, are less than his requirements as so calculated and his capital resources as so calculated do not exceed the capital limit;
 - (f) he is a member of the same family as a person described in paragraph (e) of this paragraph;
 - (g) he is in receipt of disability working allowance;
 - (h) he is a member of the same family as a person described in sub-paragraph (g) of this paragraph;
 - (i) he is in receipt of an income-based jobseeker's allowance; or
 - (j) he is a member of the same family as a person described in sub-paragraph (i) of this paragraph.
- (4) In paragraph (3), "family" (in references to membership of the same family) has the meaning given to it by section 137(1) of the Social Security Contributions and Benefits Act 1992—
- (a) as it applies to income support(10), in the case of paragraph (3)(b) and (f);
 - (b) as it applies to family credit(11), in the case of paragraph (3)(d); and
 - (c) as it applies to disability working allowance(12), in the case of paragraph (3)(h),
- and has the meaning given to it by section 35 of the Jobseekers Act 1995(13) in the case of paragraph (3)(j).
- (5) For the purposes of regulation 10 and other provisions of this Part as they apply to payments where the testing of sight was by or on behalf of a Health Board or NHS trust, a person is also an eligible person if, because of the frequency with which the condition of his eyes changes, he is considered by the Health Board or NHS trust to be non-tolerant of his existing optical appliance.

Issue of vouchers by ophthalmic medical practitioners and opticians

- 9.—(1) An ophthalmic medical practitioner or optician who, following a testing of sight under the Ophthalmic Services Regulations, issues a prescription for an optical appliance to a patient—
- (a) who has indicated that he is an eligible person; or

(10) 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 and 1996/206.

(11) See S.I. 1987/1973, regulations 6 to 9; relevant amending instruments are S.I. 1988/660, 1990/574, 1992/573, 1993/2119 and 1996/1345.

(12) See S.I. 1991/2887, regulations 8 to 11 as amended by S.I. 1993/2119 and 1996/1345.

(13) See S.I. 1996/207, regulations 76 to 78 as amended by S.I. 1996/1516 and 1517.

- (b) who (whether or not he has so indicated) is issued with a prescription for a complex appliance,

shall, in the circumstances described in paragraph (3) but subject to paragraph (4), issue to the patient a voucher relating to the optical appliance prescribed on the same occasion as he issues the prescription in accordance with paragraph 10(3) of Schedule 1 to the Ophthalmic Services Regulations.

- (2) The ophthalmic medical practitioner or optician issuing the voucher shall sign it and shall—
 - (a) mark on it the letter code specified in column 2 of Schedule 1 which relates to the type of optical appliance prescribed as set out in column 1 of that Schedule; and
 - (b) duly complete the relevant parts of the voucher with the name and address of the patient, the patient's date of birth, particulars of the prescription issued to the patient, the date on which the patient's sight was tested and the date of issue of the voucher.

(3) The circumstances referred to in paragraph (1) are where the ophthalmic medical practitioner or optician, having consulted any records which he has relating to the patient and made such enquiry of the patient as he considers relevant, is satisfied that—

- (a) the patient requires an optical appliance for the first time or an optical appliance pursuant to a prescription the particulars of which differ from those relating to his existing appliance; or
- (b) the patient requires an optical appliance because his existing optical appliance has been rendered unserviceable by fair wear and tear.

(4) Where a patient requires an optical appliance pursuant to a prescription the particulars of which differ from those relating to his existing appliance only because the patient is non-tolerant of that appliance, and has been so since it was supplied to him, no voucher shall be issued unless the Health Board responsible for the arrangements for the sight test, being satisfied that the prescription for that existing appliance was clinically correct, has authorised the issue of a voucher.

(5) Unless regulation 11 applies, not more than one voucher shall be issued to a patient in respect of any one optical appliance prescribed.

Issue of vouchers by Health Boards and NHS trusts in connection with the hospital eye service

10.—(1) Where, following a testing of sight, a prescription for an optical appliance is issued to a patient—

- (a) who has indicated that he is an eligible person;
- (b) who (whether or not he has so indicated) is issued with a prescription for a complex appliance; or
- (c) who is an eligible person by virtue of regulation 8(5),

the Health Board or NHS Trust by or on behalf of which the patient's sight was tested shall issue to the patient a voucher relating to the optical appliance prescribed.

- (2) The Health Board or NHS trust issuing the voucher shall—
 - (a) mark on it the letter code specified in column 2 of Schedule 1 which relates to the type of optical appliance prescribed as set out in column 1 of that Schedule; and
 - (b) duly complete the relevant parts of the voucher with the name and address of the patient, the patient's date of birth, particulars of the prescription issued to the patient, the date on which the patient's sight was tested and the date of issue of the voucher.

Issue of replacement vouchers by Health Boards or NHS trust

11. Where, on an application by a patient within six months of a voucher having been issued to him under regulation 9(1) or 10(1), a Health Board or NHS trust is satisfied, having made such enquiries as it considers relevant, that the voucher has been lost or destroyed without having been presented to a supplier of optical appliances, it may issue to the patient a replacement voucher completed in accordance with regulation 9(2)(a) and (b) and 10(2)(a) and (b), but with the date of issue of the voucher being that on which the replacement is issued.

Use of vouchers for the supply of optical appliances

12.—(1) Subject to paragraphs (4) and (5), a patient to whom a voucher, duly completed in accordance with regulation 9, 10 or 11, has been issued may present it to a supplier who supplies or is to supply him with an optical appliance, provided that the arrangements for supply are made within six months of the date on which the voucher was issued.

(2) A supplier may accept the voucher in substitution for payment by the patient of an amount equal to its redemption value, being the whole or part of the cost incurred for the supply of an optical appliance.

(3) A voucher relating to glasses may be accepted in connection with the supply of contact lenses.

(4) Before presenting the voucher to the supplier the patient shall sign on the voucher—

- (a) a declaration in writing to the effect that he is an eligible person indicating the grounds of his eligibility; and
- (b) an undertaking in writing to the effect that, if he is unable to show that he is an eligible person, he will pay to the responsible authority an amount equal to the voucher's redemption value.

(5) A patient who is an eligible person only by virtue of regulation 8(2)(d) or by virtue of his resources being treated in accordance with regulation 8(3)(e) or (f) as being less than his requirements shall—

- (a) before presenting the voucher to the supplier, apply to the Secretary of State for a notice of entitlement; and
- (b) on the same occasion as he presents the supplier with a voucher in accordance with paragraph (1), show a current notice of entitlement to the supplier and permit him to copy such details as may be required for the purposes of regulation 13(2)(c)(iii).

Payments to suppliers

13.—(1) Except where it was the supplier, the responsible authority shall, if the conditions specified in paragraph (2) are fulfilled, make a payment of a voucher's redemption value to a supplier who has accepted the voucher from a patient in accordance with regulation 12.

(2) The conditions referred to in paragraph (1) are that—

- (a) the patient has signed the declaration and undertaking referred to in regulation 12(4) and acknowledged receipt on the voucher of the optical appliance supplied to him;
- (b) the optical appliance is not sold or supplied in contravention of section 21(1) of the Optician's Act 1989(14); and
- (c) the supplier has—
 - (i) made and kept a written record of the supply and issued to the patient a receipt for any money received from the patient;

(14) 1989 c. 44.

- (ii) made a claim for a payment on a duly completed voucher to the responsible authority, within the period of 3 months beginning with the date of supply of the optical appliance;
- (iii) where the patient has shown a notice of entitlement to him, informed the responsible authority of the amount of the patient's contribution, if any; and
- (iv) where the claim relates to a voucher the value of which is increased in accordance with paragraph 1(1)(e) of Schedule 3, certified that the glasses supplied were small glasses.

Redemption value of voucher for supply of optical appliances

14.—(1) Where an optical appliance was supplied otherwise than under the Act the redemption value of a voucher is, subject to paragraphs (3) to (5), the lesser of—

- (a) the full cost which would have been payable by the patient for the supply but for this Part of these Regulations;
- (b) the face value of the voucher.

(2) Where an optical appliance was supplied under the Act, the redemption value of a voucher is, subject to paragraphs (3) to (5), the lesser of—

- (a) the amount of the charge for the time being determined pursuant to regulation 2 which would have been payable by the patient for the supply but for this Part;
- (b) the face value of the voucher.

(3) In relation to payments to be made because of a person's eligibility by virtue of regulation 8(2)(d), the amounts taken for the purposes of paragraph (1)(a) and (b) or paragraph (2)(a) and (b) shall, subject to paragraph (4), be reduced by the patient's contribution.

(4) If a reduction made under paragraph (3) in the case of a patient to whom a prescription was issued for a complex appliance would render the redemption value of the voucher less than the minimum complex appliance payment, that value shall be the minimum complex appliance payment.

(5) Where the patient was an eligible person only because a prescription was issued to him for a complex appliance, the redemption value of a voucher shall be the minimum complex appliance payment, except that where—

- (a) the appliance was supplied under the Act; and
- (b) in accordance with directions given pursuant to regulation 2(1), the amount of a charge made for the supply under section 70(1) of the Act would, but for any maximum charge specified in the directions, have exceeded by any amount the charge actually made,

the redemption value shall be reduced by the amount of the excess.

PART V

PAYMENTS FOR COST OF REPLACEMENT OR REPAIR OF OPTICAL APPLIANCES

Eligibility – replacement or repair

15.—(1) A payment shall be made as provided for by this Part of these Regulations to meet, or contribute towards, any cost accepted by the responsible authority as having been incurred (whether by way of charge under the Act or otherwise) for the replacement or repair of an optical appliance for which a prescription is given in consequence of a testing of sight of—

- (a) a child, where the appliance needs replacement or repair in consequence of loss or damage;
- (b) a person of any description specified in regulation 8(2)(c), (d) or (e) suffering from illness, where the appliance needs replacement or repair in consequence of its loss or damage and the responsible authority is satisfied, after making such enquiries as it considers relevant, that the loss or damage would not have occurred but for that illness.

(2) No payment shall be made by virtue of paragraph (1)(a) or (b) unless the responsible authority is satisfied, after making such enquiries as it considers relevant, that the full cost of replacement or repair cannot be met under the terms of any warranty, insurance or other arrangement made with its supplier or manufacturer.

Completion of vouchers for replacement or repair

16.—(1) A patient who considers that a payment may be made under this Part in his case in respect of the replacement or repair of his optical appliance may indicate to the supplier that he wishes such a payment may be made.

- (2) In the case of a replacement the supplier may—
 - (a) mark on a voucher the letter code specified in column 2 of Schedule 1 which relates to the type of optical appliance to be replaced as set out in column 1 of that Schedule;
 - (b) duly complete the relevant parts of the voucher with the name and address of the patient, the patient's date of birth and the date of issue of the voucher.
- (3) In the case of a repair the supplier may—
 - (a) mark on a voucher the letter code specified in column 2 of Schedule 1 which relates to the type of optical appliance to be repaired as set out in column 1 of that Schedule;
 - (b) indicate on the voucher the nature of the repair of the appliance to be undertaken and, in particular, whether it comprises—
 - (i) the replacement or repair of one or more lens included in the appliance, and, if so of how many,
 - (ii) the repair of a frame and, if so, whether it is of the whole frame, the front of a frame or one or both sides of a frame;
 - (c) duly complete the relevant parts of the voucher with the name and address of the patient, the patient's date of birth and the date of issue of the voucher.
- (4) The patient shall sign on the voucher—
 - (a) a declaration in writing to the effect that he is an eligible person, indicating the grounds of his eligibility;
 - (b) a declaration in writing to the effect that the optical appliance cannot be replaced or repaired free of charge under the terms of any warranty, insurance or other arrangement made with its supplier or manufacturer; and
 - (c) an undertaking in writing to the effect that, if he is unable to show that he is an eligible person, he will pay to the responsible authority an amount equal to the voucher's redemption value.

(5) A patient who is an eligible person only by virtue of regulation 8(2)(d) or only by virtue of his resources being treated in accordance with regulation 8(3)(e) or (f) as being less than his requirements shall show a current notice of entitlement to the supplier and permit him to copy such details as may be required for the purposes of regulation 18(2)(b)(iv).

(6) In a case to which regulation 15(1)(b) applies, a supplier intending to use the voucher under regulation 17 shall first submit it to the responsible authority so that it may be satisfied as to the circumstances in which the loss or damage occurred and give its approval to the use of the voucher.

Use of vouchers for replacement or repair

17. The supplier may use the voucher as being in substitution for payment by the patient of an amount equal to its redemption value, being the whole or part of the cost incurred for the replacement or repair.

Payments to suppliers for replacement or repair

18.—(1) Except where it was the supplier, the responsible authority shall, if the conditions specified in paragraph (2) are fulfilled, make a payment of a voucher's redemption value to a supplier who has used a voucher in accordance with regulation 17.

(2) The conditions referred to in paragraph (1) are that—

- (a) the patient has signed the declarations and undertaking referred to in regulation 16(4) and acknowledged on the voucher that the optical appliance has been replaced or repaired; and
- (b) the supplier has—
 - (i) made and kept a written record of the replacement or repair and issued to the patient a receipt for any money received from the patient;
 - (ii) obtained any prior approval required by regulation 16(6);
 - (iii) made a claim for payment on a duly completed voucher to the responsible authority within the period of three months beginning with the date of the replacement or repair of the optical appliance; and
 - (iv) where the person has shown a notice of entitlement to him informed the responsible authority of the amount of the patient's contribution, if any.

Redemption value of voucher for replacement or repair

19.—(1) Subject to paragraph (4), the redemption value of a voucher shall, in the case of a replacement, be the lesser of—

- (a) the full cost which would have been payable by the patient for the replacement but for this Part;
- (b) the face value of the voucher or, in the case of the replacement of one only of a pair of contact lenses, £40.90.

(2) Subject to paragraph (4), the redemption value of a voucher shall, in the case of the repair of an appliance be the lesser of—

- (a) the full cost which would have been payable by the patient for the repair but for this Part of these Regulations;
- (b) the amount specified in column 2 of Schedule 2 which relates to the type of optical appliance repaired (identified in that column by reference to the relevant letter code as specified in Schedule 1) and to the nature of the repair specified in column 1 of Schedule 2, together with any increase provided for by Schedule 3.

(3) Where more than one repair is made to an appliance the amount taken for the purposes of paragraph (2)(b) as being specified in Schedule 2 shall be the aggregate of the relevant amounts ascertained in accordance with Schedule 2, except—

- (a) that the element of the value of a voucher which relates to the repair of a frame shall not exceed £10.50; and
- (b) the maximum supplement payable under paragraph 1(1)(e) or (g) of Schedule 3 in respect of the repair of any one appliance shall not exceed £46.10.

(4) In the case of a person who was eligible for a payment to be made in his case only by virtue of regulation 8(2)(d), the amounts taken for the purpose of paragraphs (1)(a) and (b) and (2)(a) and (b) shall be reduced by the patient's contribution.

PART VI

PAYMENTS TO PATIENTS

Payments to patients in respect of the supply, replacement or repair of optical appliances

20.—(1) A payment may be made under this regulation to a person of a description specified by regulation 8(2) or 15(1) who pays for the supply, replacement or repair of an optical appliance without exercising his right under regulation 9(1), 10(1) or 15(1) to a payment to meet or contribute towards the cost incurred for the supply, replacement or repair of such optical appliance.

(2) A patient who wishes to receive a payment under this regulation must—

- (a) make a claim to the Secretary of State if he considers that he falls within the description specified in regulation 8(2)(c) or (d); or
- (b) in all other cases, make a claim to the responsible authority.

(3) Any such claim must be made within three months after the date of the supply, replacement or repair of the optical appliance, or within such further period as the Secretary of State or the responsible authority may for good cause allow, and that claim must be made on a form provided by or on behalf of the Secretary of State or the responsible authority for that purpose.

(4) It is a further condition of entitlement to a payment under paragraph (1) that the patient produces in support of his claim such evidence as the Secretary of State or the responsible authority may reasonably require including the receipt for any fee paid for the supply, replacement or repair.

(5) Where the Secretary of State is satisfied that the patient is entitled to a payment as a result of a claim under paragraph (2)(a), he shall authorise in writing the payment of the amount in question to the patient by the responsible authority and, on receipt of such authorisation, the responsible authority shall make a payment to the patient of an amount equal to the redemption value of the voucher which could have been completed under regulation 9, 10 or 16 if the patient had satisfied the requirements of regulation 9(1), 10(1) or 16(4), as the case may be.

(6) Where the responsible authority is satisfied that the patient is entitled to a payment of a claim under paragraph (2)(b), it shall make a payment to the patient of an amount equal to the redemption value of the voucher which could have been completed under regulation 9, 10, or 16 if the patient had satisfied the requirements of regulation 9(1), 10(1) or 16(4), as the case may be.

PART VII

MISCELLANEOUS

Amounts wrongly paid

21.—(1) Where a person who is not an eligible person declares on a voucher that he is an eligible person and in consequence the responsible authority makes a payment under these Regulations, the person who makes the declaration shall repay the amount of that payment to the responsible authority.

(2) Where a supplier makes a claim for payment to the responsible authority, representing that the conditions specified in regulation 5(2), 13(2) or 18(2) are fulfilled, but those conditions are not

fulfilled and the authority makes a payment to the supplier under these Regulations, it may recover the amount of that payment from the supplier.

Signatures and claims for payments

22. A signature required by these Regulations shall be given, and a claim for payment pursuant to regulation 6 or 20 shall be made—

- (a) on behalf of a child by either parent or, in the absence of both parents, the guardian or other adult person who has the care of the child;
- (b) on behalf of any other person who is incapable of giving the signature, by—
 - (i) an adult relative;
 - (ii) any other adult who has the care of that person; or
 - (iii) any other adult competent so to sign in accordance with any rule of law;
- (c) on behalf of any person under 18 years of age—
 - (i) in the care of a local authority under Part II of the Social Work (Scotland) Act 1968⁽¹⁵⁾ or under the provisions of that Part as applied by section 44(5) of that Act⁽¹⁶⁾, by a person duly authorised by that authority;
 - (ii) in the care of a voluntary organisation, by that organisation or a person duly authorised by them.

Application of these Regulations

23. The amounts specified in these Regulations apply only in relation to a voucher accepted or used pursuant to regulation 12 or regulation 17 on or after 1st April 1998.

Revocations

24. The Regulations specified in column (1) of Schedule 4 are revoked to the extent specified in column (3) of that Schedule.

St Andrew's House,
Edinburgh
5th March 1998

Sam Galbraith
Minister for Health Scottish Office

⁽¹⁵⁾ 1968 c. 49.

⁽¹⁶⁾ Section 44(5) was amended by the Children Act 1975 (c. 72), Schedule 3, paragraph 56 and the Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73), section 28.

SCHEDULE 1

Regulations 1(2) and (3), 9(2)(a), 10(2)(a),
16(2)(a) and (3)(a)

VOUCHER LETTER CODES AND FACE VALUES – SUPPLY AND REPLACEMENT

<i>Column 1</i> <i>Type of optical appliance</i>	<i>Column 2</i> <i>Letter code</i>	<i>Column 3</i> <i>Face value of voucher</i>
1. Glasses with single vision lenses–	A	£28.00
(a) of a spherical power of not more than 6 dioptries with a cylindrical power of not more than 2 dioptries;		
(b) of a spherical power of not more than 2 dioptries with a cylindrical power of more than 2 dioptries and not more than 4 dioptries.		
2. Glasses with single vision lenses–	B	£42.50
(a) of a spherical power of more than 2 dioptries but not more than 6 dioptries with a cylindrical power of more than 2 dioptries but not more than 4 dioptries;		
(b) of a spherical power of more than 6 dioptries but less than 10 dioptries with a cylindrical power of not more than 2 dioptries.		
3. Glasses with single vision lenses–	C	£57.90
(a) of a spherical power of 10 or more dioptries but not more than 20 dioptries with a cylindrical power of not more than 6 dioptries;		

Status: This is the original version (as it was originally made).

<i>Column 1</i> <i>Type of optical appliance</i>	<i>Column 2</i> <i>Letter code</i>	<i>Column 3</i> <i>Face value of voucher</i>
(b) with a spherical power of not more than 10 dioptres with a cylindrical power of more than 4 dioptres but not more than 6 dioptres;		
(c) of a spherical power of more than 6 dioptres but less than 10 dioptres with a cylindrical power of more than 2 dioptres but not more than 4 dioptres.		
4. Glasses with single vision lenses—	D	£113.70
(a) of a spherical power of more than 20 dioptres with any cylindrical power;		
(b) of a spherical power of not more than 20 dioptres with a cylindrical power of more than 6 dioptres.		
5. Glasses with bifocal lenses—	E	£48.20
(a) of a spherical power of not more than 6 dioptres with a cylindrical power of not more than 2 dioptres;		
(b) of a spherical power of not more than 2 dioptres with a cylindrical power of more than 2 dioptres and not more than 4 dioptres.		
6. Glasses with bifocal lenses—	F	£61.40
(a) of a spherical power of more than 6 dioptres but less than 10 dioptres with a		

<i>Column 1</i> <i>Type of optical appliance</i>	<i>Column 2</i> <i>Letter code</i>	<i>Column 3</i> <i>Face value of voucher</i>
<p>cylindrical power of not more than 2 dioptries;</p> <p>(b) of a spherical power of more than 2 dioptries but not more than 6 dioptries with a cylindrical power of more than 2 dioptries but not more than 4 dioptries.</p>		
<p>7. Glasses with bifocal lenses—</p> <p>(a) of a spherical power of 10 or more dioptries but not more than 14 dioptries with a cylindrical power of not more than 6 dioptries;</p> <p>(b) of a spherical power of not more than 10 dioptries with a cylindrical power of more than 4 dioptries but not more than 6 dioptries;</p> <p>(c) of a spherical power of more than 6 dioptries but less than 10 dioptries with a cylindrical power of more than 2 dioptries but not more than 4 dioptries.</p>	G	£73.90
<p>8. Glasses with prism-controlled bifocal lens of any power or with bifocal lenses—</p> <p>(a) of a spherical power of more than 14 dioptries with any cylindrical power;</p> <p>(b) of a spherical power of not more than 14 dioptries with a cylindrical power of more than 6 dioptries.</p>	H	£125.00

Status: This is the original version (as it was originally made).

<i>Column 1</i> <i>Type of optical appliance</i>	<i>Column 2</i> <i>Letter code</i>	<i>Column 3</i> <i>Face value of voucher</i>
9. Glasses not falling within I any of paragraphs 1 to 8 for which a prescription is given in consequence of a testing of sight by a Health Board or an NHS trust.		£125.00
10. Contact lenses for which J a prescription is given in consequence of a testing of sight by a Health Board or an NHS trust.		£40.90 (per lens)

SCHEDULE 2

Regulation 19(2) and (3)

VOUCHER VALUES – REPAIR

<i>Column 1</i> <i>Nature of Repair to appliance</i>	<i>Column 2 Letter Codes – Values</i>							
	<i>A</i>	<i>B</i>	<i>C</i>	<i>D</i>	<i>E</i>	<i>F</i>	<i>G</i>	<i>H&I</i>
	£	£	£	£	£	£	£	£
Repair or replacement of one lens	8.70	16.00	23.70	51.60	18.90	25.40	31.70	57.20
Repair or replacement of two lenses	17.50	32.10	47.50	103.20	37.80	50.80	63.40	114.50
Repair or replacement of: the front of a frame	9.00	9.00	9.00	9.00	9.00	9.00	9.00	9.00
a side of a frame	5.30	5.30	5.30	5.30	5.30	5.30	5.30	5.30

<i>Column 1 Nature of Repair to appliance</i>	<i>Column 2 Letter Codes – Values</i>							
	<i>A</i>	<i>B</i>	<i>C</i>	<i>D</i>	<i>E</i>	<i>F</i>	<i>G</i>	<i>H&I</i>
	£	£	£	£	£	£	£	£
the whole frame	10.50	10.50	10.50	10.50	10.50	10.50	10.50	10.50
Maximum	28.00	42.60	58.00	113.70	48.30	61.30	73.90	125.00

SCHEDULE 3

Regulations 1(2), 13(2)(c)(iv) and 19(2)
and (3)PRISMS, TINTS, PHOTOCROMIC LENSES, SMALL GLASSES
AND SPECIAL FRAMES AND COMPLEX APPLIANCES

1.—(1) The amounts in column 3 of Schedule 1 and column 2 of Schedule 2 and in paragraph 2(a) and (b) of this Schedule shall be increased as follows:

- (a) by £5.40 in respect of each single vision lens containing a necessary prism;
- (b) by £6.70 in respect of each other lens containing a necessary prism;
- (c) by £2.90 in respect of each necessary single vision tinted lens;
- (d) by £3.40 in respect of each necessary other tinted lens;
- (e) in respect of small glasses—
 - (i) by £46.10 in the case of supply or replacement of glasses or repair of the whole frame;
 - (ii) by £40.90 in the case of repair or replacement of the front of the frame; and
 - (iii) by £22.10 in the case of repair or replacement of a side of a frame;
- (f) where the voucher is issued or completed by a Health Board or NHS trust (in connection with the hospital eye service) by £2.90 in respect of each necessary single vision photochromic lens and by £3.40 in respect of each necessary other photochromic lens;
- (g) where the voucher is issued or completed by a Health Board or NHS trust (in connection with the hospital eye service), in respect of glasses the frame of which is certified by the Health Board or NHS trust as being required to be specially manufactured on account of the patient's facial characteristics, by £46.10 in the case of supply or replacement of the glasses or repair of the whole frame, by £40.90 in the case of repair of the front of the frame and by £22.10 in the case of repair of a side of a frame.

(2) The increases provided for by sub-paragraph (1)(e), (f) and (g) of this paragraph do not apply in the case of a voucher relating to glasses if it is accepted in connection with the supply or replacement of contact lenses.

(3) In sub-paragraph (1) of this paragraph “necessary” in relation to a prism or a tinted or photochromic lens means that the prism, tint or photochromic quality has been prescribed on the basis of clinical need.

Status: This is the original version (as it was originally made).

(4) Where the face value of a voucher is increased in accordance with sub-paragraph (1)(g) of this paragraph, it may not be further increased in accordance with sub-paragraph (1)(e) of this paragraph.

2. The minimum complex appliance payment is—

- (a) for a complex appliance with single vision lenses only, £4.60;
- (b) for any other complex appliance, £24.80,

plus, in each case, the amount of any increase provided for by paragraph 1 of this Schedule.

SCHEDULE 4

Regulation 24

REGULATIONS REVOKED

<i>1</i> <i>Regulations Revoked</i>	<i>2</i> <i>Reference</i>	<i>3</i> <i>Extent of revocation</i>
The National Health Service (Optical Charges & Payments) (Scotland) Regulations 1989	S.I. 1989/392	The whole Regulations
The National Health Service (Optical Charges & Payments) (Scotland) Amendment Regulations 1990	S.I. 1990/504	The whole Regulations
The National Health Service (Optical Charges & Payments) (Miscellaneous Amendments) (Scotland) Regulations 1991	S.I. 1991/534	The whole Regulations except regulations 19 and 20
The National Health Service (Optical Charges & Payments) (Scotland) Amendment Regulations 1991	S.I. 1991/1731	The whole Regulations
The National Health Service (Optical Charges & Payments) (Scotland) Amendment (No.2) Regulations 1991	S.I. 1991/2487	The whole Regulations
The National Health Service (Optical Charges & Payments) (Miscellaneous Amendments) (Scotland) Regulations 1992	S.I. 1992/531	The whole Regulations except regulation 5
The National Health Service (Optical Charges & Payments) (Scotland) Amendment Regulations 1993	S.I. 1993/524	The whole Regulations
The National Health Service (Optical Charges & Payments) (Scotland) Amendment Regulations 1994	S.I. 1994/145	The whole Regulations

<i>1</i>	<i>2</i>	<i>3</i>
<i>Regulations Revoked</i>	<i>Reference</i>	<i>Extent of revocation</i>
The National Health Service (Optical Charges & Payments) (Scotland) Amendment (No.2) Regulations 1994	S.I. 1994/635	The whole Regulations
The National Health Service (Optical Charges & Payments) (Scotland) Amendment (No.3) Regulations 1994	S.I. 1994/2587	The whole Regulations
The National Health Service (Optical Charges & Payments) (Scotland) Amendment Regulations 1995	S.I. 1995/1	The whole Regulations
The National Health Service (Optical Charges & Payments) (Scotland) Amendment (No.2) Regulations 1995	S.I. 1995/705	The whole Regulations
The National Health Service (Optical Charges & Payments) (Scotland) Amendment (No.3) Regulations 1995	S.I. 1995/2369	The whole Regulations
The National Health Service (Optical Charges & Payments) (Scotland) Amendment Regulations 1996	S.I. 1996/473	The whole Regulations
The National Health Service (Optical Charges & Payments) (Scotland) Amendment (No.2) Regulations 1996	S.I. 1996/2354	The whole Regulations
The National Health Service (Optical Charges & Payments) (Scotland) Amendment (No.3) Regulations 1996	S.I. 1996/2556	The whole Regulations
The National Health Service (Optical Charges & Payments) (Scotland) Amendment Regulations 1997	S.I. 1997/1013	The whole Regulations
The National Health Service (Optical Charges & Payments) (Scotland) Amendment (No.2) Regulations 1997	S.I. 1997/2492	The whole Regulations

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations consolidate with amendments the National Health Service (Optical Charges and Payments) (Scotland) Regulations 1989 (“the 1989 Regulations”) which provide a scheme for payments to be made by Health Boards and NHS trusts by means of a voucher system, in respect of costs incurred by certain categories of persons in connection with sight tests and the supply, replacement and repair of optical appliances.

The 1989 Regulations and all subsequent amendments to them are revoked by regulation 23 and Schedule 4. The Regulations, contained in the instruments referred to in Schedule 4, which amended Regulations other than the 1989 Regulations remain in force.

The amendments made to the 1989 Regulations are as follows:–

Amendments to update references to various enactments including, in particular, references to the Opticians Act 1958 (which has been replaced by the Opticians Act 1989); and references to the Social Security Act 1986 (which has now been replaced, in part, by the Social Security Contributions and Benefits Act 1992).

British Standard 3521/91, referred to in regulation 1(2) of these Regulations, may be obtained from the British Standards Institution at 389 Chiswick High Road, London, W4 4AL.

The Regulations also incorporate increases in voucher values for the supply, repair and replacement of optical appliances.

Regulation 19 (redemption value of voucher for replacement or repair) increases the value of an optical voucher issued towards the cost of replacing a single contact lens, and to increase the maximum contribution by way of voucher to the cost of repairing a frame.

Schedule 1 increases the value of vouchers issued towards the cost of the supply and replacement of glasses and contact lenses.

Schedule 2 increases the value of vouchers issued towards the cost of the repair and replacement of optical appliances.

Schedule 3 increases the additional value for vouchers for prisms, tints, photochromic lenses and special categories of appliances.

The rate of increase is, on average, approximately 2.8%.