
STATUTORY INSTRUMENTS

1998 No. 642

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

**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⁽¹⁾ as it applies to income support;

“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⁽²⁾;

“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;

(1) 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).

(2) 1995 c. 18.

“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⁽³⁾;

“Ophthalmic Services Regulations” means the National Health Service (General Ophthalmic Services) (Scotland) Regulations 1986⁽⁴⁾;

“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;

“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⁽⁵⁾;

“the Remission Regulations” means the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 1988⁽⁶⁾ 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;

(3) See S.I. 1986/965, regulation 6.

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

(5) S.I. 1989/392.

(6) 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.

- (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(7), 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—

- (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—

(7) 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) 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.