

2003 No. 657

NATIONAL HEALTH SERVICE, ENGLAND

**National Health Service (Optical Charges and Payments) and
(General Ophthalmic Services) Amendment Regulations
2003**

Made - - - - *11th March 2003*

Laid before Parliament *11th March 2003*

Coming into force in accordance with regulation 1(2) and (3)

The Secretary of State for Health, in exercise of the powers conferred upon him by sections 38, 39, 78(1) and 126(4) of, and paragraphs 2 and 2A of Schedule 12 to, the National Health Service Act 1977(a) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement, interpretation and extent

1.—(1) These Regulations may be cited as the National Health Service (Optical Charges and Payments) and (General Ophthalmic Services) Amendment Regulations 2003.

(2) Subject to paragraph (3), these Regulations shall come into force on 1st April 2003.

(3) Regulations 2 to 4 and 8 to 10 shall come into force on 6th April 2003.

(4) In these Regulations—

“the Optical Regulations” means the National Health Service (Optical Charges and Payments) Regulations 1997(b); and

(a) 1977, c.49; see section 128(1) as amended by the National Health Service and Community Care Act 1990 (c.19), section 26(2)(g) and (i), for the definition of “prescribed” and “regulations”. Section 38 was amended by the Health Services Act 1980 (c.53) (“the Health Services Act”), section 1 and Schedule 1, paragraph 51; by the Health and Social Security Act 1984 (c.48) (“the Health and Social Security Act”), section 1(3); by S.I. 1985/39, article 7(11); by the Health and Medicines Act 1988 (c.49) (“the Health and Medicines Act”), section 13(1); by the Health Authorities Act 1995 (c.17) (“the Health Authorities Act”), Schedule 1, paragraph 27; and by the National Health Service Reform and Health Care Professions Act 2002 (c.17) (“the National Health Service Reform Act”), section 1(3) and Schedule 2, Part 1, paragraph 11. Section 39 was extended by the Health and Medicines Act, section 17; and amended by the Health Services Act, section 1 and Schedule 1, paragraph 52; by the Health and Social Security Act, section 1(4), Schedule 1, Part I, paragraph 1 and Schedule 8, Part I; by S.I. 1985/39, article 7(12); by the Health Authorities Act, Schedule 1, paragraph 28; by the Health Act 1999 (c.8), section 9(4); by the Health and Social Care Act 2001 (c.15), section 20(5) and 23(4); and by the National Health Service Reform Act, section 1(3) and Schedule 2, Part 1, paragraph 12. Section 78(1) was amended by section 25 of, and Schedule 3 to, the Health and Medicines Act. Paragraph 2 of Schedule 12 was substituted by sections 11(8) and 25 of, and paragraph 8 of Schedule 2 to, and Schedule 3 to, the Health and Medicines Act, by section 25(2) of, and paragraph 2 of Schedule 5 to, the Health Services Act, and by section 24 of, and Part 1 of Schedule 8 to, the Health and Social Security Act. Paragraph 2A of Schedule 12 was inserted by section 1 of, and paragraph 3 of Part 1 of Schedule 1 to, the Health and Social Security Act and by section 13 of the Health and Medicines Act. As regards Wales, the functions of the Secretary of State under sections 38, 39, 78 and 126(4) of the 1977 Act are transferred to the National Assembly for Wales under article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672.

(b) S.I. 1997/818, as amended by S.I. 1999/609, S.I. 1999/2562, S.I. 2000/594, S.I. 2001/414, S.I. 2001/3066, S.I. 2001/3323, S.I. 2002/547, S.I. 2002/1326.

“the Ophthalmic Regulations” means the National Health Service (General Ophthalmic Services) Regulations 1986**(a)**.

(5) These Regulations apply to England only.

PART 1

AMENDMENTS OF OPTICAL REGULATIONS

Amendment of regulation 1 of the Optical Regulations

2. In regulation 1 of the Optical Regulations (citation, commencement and interpretation), in sub-paragraph (2)—

(a) after the definition of “child”, there is inserted—

““child tax credit” means child tax credit under the Tax Credits Act 2002**(b)**.”;

(b) after the definition of “complex appliance”, there is inserted—

““disability element” means the disability element of working tax credit as specified in section 11(3) of the Tax Credits Act 2002.”;

(c) after the definition of “the 1989 regulations”, there is inserted—

““relevant income” has the same meaning as in section 7(3) of Part 1 of the Tax Credits Act 2002.”;

(d) after the definition of “voucher”, there is inserted—

““working tax credit” means working tax credit under the Tax Credits Act 2002.”; and

(e) the definitions of “amount withdrawn”, “disabled person’s tax credit” and “working families’ tax credit” are omitted.

Amendment of regulation 8 of the Optical Regulations

3.—(1) Regulation 8 of the Optical Regulations (eligibility—supply of optical appliances) is amended as follows.

(2) In paragraph (3)—

(a) at the end there is added—

“(1) he is a member of a family—

(i) one member of which is receiving—

(aa) working tax credit and child tax credit;

(bb) working tax credit which includes a disability element; or

(cc) child tax credit, but is not eligible for working tax credit; and

(ii) where the relevant income of the person or persons to whom an award of a tax credit is made under section 14 of the Tax Credits Act 2002 is determined at the time of the award not to exceed £14,200; or

(m) he is a member of a family, in respect of whom there is a current notice of entitlement under regulation 12A.”;

(b) sub-paragraphs (c), (d), (g) and (h) are omitted.

(3) For paragraph (4) there is substituted—

“(4) In paragraph (3)—

(a) in sub-paragraphs (b) and (f), “family” has the meaning given to it by section 137(1) of the Social Security Contributions and Benefits Act 1992**(c)**, as it applies to income support;

(a) S.I. 1986/975; relevant amending instruments are S.I. 1989/395, 1995/558, 1996/2320, 1999/2562, 2001/1084 and 2001/3739.

(b) 2002 c.21.

(c) 1992 c.4.

- (b) in sub-paragraph (j), “family” has the meaning given to it by section 35 of the Jobseekers Act 1995^(a); and
- (c) in sub-paragraphs (l) and (m), “family” has the meaning given to it by regulation 2(2) of the Tax Credits (Definition and Calculation of Income) Regulations 2002^(b).”.

New regulation 12A inserted into the Optical Regulations

4. After regulation 12 of the Optical Regulations (use of vouchers for supply of optical appliances), there is inserted—

“12A—(1) Where a person is entitled to the payment of, or contribution towards, the cost incurred for the supply of an optical appliance because he is a member of a family described in regulation 8(3)(1), the Secretary of State shall issue a notice of entitlement to that family.

(2) Such a notice of entitlement shall apply to—

- (a) any family member who is named in the notice of entitlement; and
- (b) any other member of such a person’s family.

(3) A notice of entitlement issued under paragraph (1) shall be effective—

- (a) from such date; and
- (b) for such period,

as the Secretary of State may determine.

(4) Any change in the financial or other circumstances of a person who is a member of a family in respect of which a notice of entitlement has been issued under paragraph (1), during the period for which the notice of entitlement has been issued, shall not affect the validity of the notice of entitlement in respect of that period.”.

Amendment of regulation 19 of the Optical Regulations

5. In regulation 19 of the Optical Regulations (redemption value of voucher for replacement or repair)—

- (a) in paragraph (1)(b) for “£44.60”^(c) there is substituted “£45.70”; and
- (b) in paragraph (3) for “£11.50”^(d) there is substituted “£11.80”.

Amendment of the Schedules to the Optical Regulations

6.—(1) In Schedule 1 to the Optical Regulations (voucher letter codes and face values—supply and replacement), in column (3) (face value of voucher), for each amount specified in column 1 of the table below there is substituted the amount specified in relation to it in column 2 of that table.

Table

<i>(1) Old amount</i>	<i>(2) New amount</i>
£30.50	£31.30
£46.40	£47.60
£63.20	£64.80
£142.70	£146.30
£52.70	£54.00
£67.00	£68.70
£81.00	£83.00
£157.00 (in both places where it appears)	£160.90
£44.60	£45.70

(a) 1995 c.18.
 (b) S.I. 2002/2006.
 (c) The amount of £44.60 was substituted by S.I. 2002/547.
 (d) The amount of £11.50 was substituted by S.I. 2002/547.

(2) In Schedule 2 to the Optical Regulations (prisms, tints, photochromic lenses, small and special glasses and complex appliances)—

- (a) in paragraph 1(1)(a) for “£9.90” there is substituted “£10.10”;
- (b) in paragraph 1(1)(b) for “£11.90” there is substituted “£12.20”;
- (c) in paragraph 1(1)(c) for “£3.30” there is substituted “£3.40”;
- (d) in paragraph 1(1)(d) for “£3.80” there is substituted “£3.90”;
- (e) in paragraph 1(1)(e)—
 - (i) for “£50.20” there is substituted “£51.50”,
 - (ii) for “£44.60” there is substituted “£45.70”, and
 - (iii) for “£24.20” there is substituted “£24.80”;
- (f) in paragraph 1(1)(g) for “£50.20” there is substituted “£51.50”;
- (g) in paragraph 2(a) for “£10.70” there is substituted “£11.00”; and
- (h) in paragraph 2(b) for “£27.00” there is substituted “£27.70”.

(3) For Schedule 3 to the Optical Regulations (voucher values—repair), there is substituted the Schedule 3 set out in the Schedule to these Regulations.

Application of Regulations 5 and 6

7. The amendments made in regulations 5 and 6 of these Regulations apply only in relation to a voucher accepted or used pursuant to regulation 12 or regulation 17 of the Optical Regulations on or after 1st April 2003.

PART 2

AMENDMENTS OF OPHTHALMIC REGULATIONS

Amendment of regulation 2 of the Ophthalmic Regulations

8. In regulation 2 of the Ophthalmic Regulations (interpretation), in sub-paragraph (1)—
- (a) after the definition of “capital limit”, there is inserted—

““child tax credit” means child tax credit under the Tax Credits Act 2002(a);”;
 - (b) after the definition of “director”, there is inserted—

““disability element” means the disability element of working tax credit as specified in section 11(3) of the Tax Credits Act 2002;”;
 - (c) after the definition of “qualifications”, there is inserted—

““relevant income” has the same meaning as in section 7(3) of Part 1 of the Tax Credits Act 2002;”;
 - (d) in the definition of “notice of entitlement” after “regulation 7” there is inserted “or 7ZA”;
 - (e) after the definition of “the Tribunal”, there is inserted—

““working tax credit” means working tax credit under the Tax Credits Act 2002.”; and
 - (f) the definitions of “amount withdrawn”, “disabled person’s tax credit” and “working families’ tax credit” are omitted.

Amendment of regulation 13 of the Ophthalmic Regulations

9.—(1) Regulation 13 of the Ophthalmic Regulations (sight tests—eligibility) is amended as follows.

(a) 2002 c.21.

(2) In paragraph (2)—

(a) at the end there is added—

“(1) he is a member of a family—

(i) one member of which is receiving—

(aa) working tax credit and child tax credit,

(bb) working tax credit which includes a disability element, or

(cc) child tax credit, but is not eligible for working tax credit, and

(ii) where the relevant income of the person or persons to whom an award of a tax credit is made under section 14 of the Tax Credits Act 2002 is determined at the time of the award not to exceed £14,200; or

(m) he is a person in respect of whom there is a current notice of entitlement.”; and

(b) sub-paragraphs (c), (d), (g) and (h) are omitted.

(3) For paragraph (3) there is substituted—

“(3) In paragraph (2)—

(a) in sub-paragraphs (b) and (f), “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;

(b) in sub-paragraph (j), “family” has the meaning given to it by section 35 of the Jobseekers Act 1995(b); and

(c) in sub-paragraph (l), “family” has the meaning given to it by regulation 2(2) of the Tax Credits (Definition and Calculation of Income) Regulations 2002(c).”.

PART 3

TRANSITIONAL PROVISION

10.—(1) Until 31st July 2003, notwithstanding the revocation of regulation 8(3)(c), (d), (g) and (h) of the Optical Regulations, any person who, immediately before the coming into force of regulations 2 to 4 of these Regulations, was an eligible person under regulation 8(3)(c), (d), (g) and (h) of the Optical Regulations shall continue to be an eligible person for the purposes of Parts IV and V of the Optical Regulations.

(2) Until 31st July 2003, notwithstanding the revocation of regulation 13(2)(c), (d), (g) and (h) of the Ophthalmic Regulations, any person who, immediately before the coming into force of regulation 8 and 9 of these Regulations, was an eligible person under regulation 13(2)(c), (d), (g) and (h) of the Ophthalmic Regulations shall continue to be an eligible person.

Signed by authority of the Secretary of State for Health

11th March 2003

David Lammy
Parliamentary Under Secretary of State,
Department of Health

(a) 1992 c.4.
(b) 1995 c.18.
(c) S.I. 2002/2006.

SCHEDULE

Regulation 6

SCHEDULE 3 TO THE OPTICAL REGULATIONS AS SUBSTITUTED BY THESE REGULATIONS

SCHEDULE 3

Regulation 19(2) and (3)

VOUCHER VALUES—REPAIR

<i>(1)</i> <i>Nature of Repair</i>	<i>(2)</i> <i>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	9.75	17.90	26.50	67.25	21.10	28.45	35.60	74.55
Repair or replacement of two lenses	19.45	35.75	53.00	134.50	42.25	56.90	71.25	149.15
Repair or replacement of:								
The front of a frame	10.00	10.00	10.00	10.00	10.00	10.00	10.00	10.00
A side of a frame	5.95	5.95	5.95	5.95	5.95	5.95	5.95	5.95
The whole frame	11.80	11.80	11.80	11.80	11.80	11.80	11.80	11.80

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the National Health Service (Optical Charges and Payments) Regulations 1997, which provide for payments to be made by means of a voucher system in respect of costs incurred by certain categories of persons in connection with the supply, replacement and repair of optical appliances.

Regulations 2 and 3 make amendments to regulation 1 (citation, commencement and interpretation) and 9 (eligibility—supply of optical appliances) of the National Health Service (Optical Charges and Payments) Regulations 1997 (“the Optical Regulations”) consequent on the abolition of disabled person’s tax credit and working family tax credit and their replacement by child tax credit and working tax credit by the Tax Credits Act 2002.

Regulation 4 inserts a new regulation 12A into the Optical Regulations to provide for the Secretary of State to issue notices of entitlement based on entitlement to the new child tax credit and working tax credit.

Regulation 5 amends regulation 19 of the Optical Regulations to increase the redemption value of a voucher issued towards the cost of replacement of a single contact lens and to increase the maximum contribution by way of a voucher to the cost of repair of a frame.

Regulation 6 increases the amounts contained in Schedules 1 and 2 to the Optical Regulations, and substitutes a new Schedule 3 into the Optical Regulations to increase the value of vouchers issued towards the cost of the repair and replacement of optical appliances. The rate of increase in both regulations 5 and 6 is, on average, 2.5%.

Regulation 7 provides that the increases contained in regulations 5 and 6 only apply in relation to vouchers accepted or used on or after 1 April 2003.

Regulations 8 and 9 make amendments to regulation 2 (interpretation) and 13 (sight tests—eligibility) of the National Health Service (General Ophthalmic Services) Regulations 1986 consequent on the abolition of disabled person’s tax credit and working family tax credit and their replacement by child tax credit and working tax credit by the Tax Credits Act 2002.

Regulation 10 makes transitional provision for those persons who were entitled to the payment of, or contribution towards, the cost for the supply of an optical appliance or eligible for a sight test by virtue of being in receipt of one of the old tax credits or being a member of a family of such a person.

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(General Ophthalmic Services) Amendment Regulations
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