

**2003 No. 671**

**NATIONAL HEALTH SERVICE, ENGLAND**

**The National Health Service (Travelling Expenses and Remission of Charges) (Amendment) Regulations 2003**

<i>Made - - - - -</i>	<i>12th March 2003</i>
<i>Laid before Parliament</i>	<i>12th March 2003</i>
<i>Coming into force</i>	
<i>except for regulation 5</i>	<i>6th April 2003</i>
<i>regulation 5</i>	<i>7th April 2003</i>

The Secretary of State for Health, in exercise of the powers conferred on him by sections 83A and 126(4) of 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 application**

- 1.—(1) These Regulations may be cited as the National Health Service (Travelling Expenses and Remission of Charges) (Amendment) Regulations 2003 and shall come into force,—
- (a) except for regulation 5, on 6th April 2003; and
  - (b) regulation 5 on 7th April 2003.
- (2) In these Regulations “the principal Regulations” means the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988(b).
- (3) These Regulations apply to England only.

**Amendment of regulation 2 of the principal Regulations**

2. In regulation 2 of the principal Regulations (interpretation), in paragraph (1),—
- (a) the definitions of “amount withdrawn”, “disabled person’s tax credit” and “working families’ tax credit”(c) are omitted;

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(a) 1977 c. 49. Section 83A was inserted by section 14(1) of the Social Security Act 1988 (c. 7), section 25 of, and paragraph 6 of Schedule 2 to, the Health and Medicines Act 1988 (c. 49), section 41(10) of, and paragraph 19 of Schedule 2 to, the National Health Service (Primary Care) Act 1997 (c. 46), article 2 of S.I. 1998/2385, article 3(1) of, and paragraph 13 of Schedule 1 to, S.I. 2000/90, section 66(1) of, and paragraph 18(5) of Schedule 9 to, the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 2(5) of, and paragraphs 1 and 32 of Part 1 of Schedule 2 to, the National Health Service Reform and Health Care Professions Act 2002 (c. 17) and section 2(1) of, and paragraph 40 of Schedule 1 to, the Health Authorities Act 1995 (c. 17). Section 126(4) was amended by section 65(2) of the 1990 Act and by paragraph 37(6) of the Health Act 1999 (c. 8). *See* section 128(1), as amended by section 26(2)(g) and (i) of the 1990 Act, for the definitions of “prescribed” and “regulations”. The functions of the Secretary of State under these provisions are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales; by article 2(a) of the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672, as amended by section 66(5) of the 1999 Act.

(b) S.I. 1988/551. As amended by S.I. 1989/394, S.I. 1990/548, S.I. 1990/1661, S.I. 1991/557, S.I. 1992/1104, S.I. 1993/608, S.I. 1995/642, S.I. 1995/2352, S.I. 1996/410, S.I. 1996/1346, S.I. 1996/2362, S.I. 1997/748, S.I. 1997/2393, S.I. 1998/2417, S.I. 1999/767, S.I. 1999/2507, S.I. 2000/621, S.I. 2000/2870, S.I. 2001/742, S.I. 2000/1397, S.I. 2001/3065, S.I. 2001/3322, S.I. 2001/4043, S.I. 2002/580, S.I. 2002/2353.

(c) These definitions were all inserted by S.I. 1999/2507.

- (b) for the definition of “family”(a) there is substituted—  
 ““family” has the meaning assigned to it by section 137(1) of the Social Security Contributions and Benefits Act 1992(b) as it applies to income support, except that—
  - (a) in regulation 4(2)(j) and (l) it has the meaning assigned to it by section 35 of the Jobseekers Act 1995(c),
  - (b) in regulation 4(2)(q) it has the meaning assigned to it by regulation 2(2) of the Tax Credits (Definition and Calculation of Income) Regulations 2002(d), and
  - (c) where a claim has been made for support under Part VI of the Immigration and Asylum Act 1999(e), it means the asylum-seeker who has made that claim and any dependant, as defined in section 94 of that Act, whom he has included in that claim;”;
- (c) after the definition of “capital limit”(f) there is inserted—  
 ““child tax credit” means child tax credit under the Tax Credits Act 2002(g);”;
- (d) after the definition of “date of claim” 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;”;
- (e) after the definition of “full rate” there is inserted—  
 ““relevant income” has the same meaning as in section 7(3) of Part 1 of the Tax Credits Act 2002(h);”;
- (f) after the definition of “week” there is inserted—  
 ““working tax credit” means working tax credit under Tax Credits Act 2002.”.

#### **Amendment of regulation 4 of the principal Regulations**

- 3. In regulation 4 of the principal Regulations (description of persons entitled to full remission and payment), in paragraph (2),—
  - (a) at the end there is added—  
 “: or
  - (q) a person who is a member of a family—
    - (i) one member of which, on the date entitlement is determined, is receiving—
      - (aa) working tax credit and child tax credit, or
      - (bb) working tax credit which includes a disability element, or
      - (cc) child tax credit, but is not eligible for working tax credit;”;
    - (ii) where the relevant income of the member or members to whom the 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.
  - (b) sub-paragraphs (c), (d), (g) and (h)(i) are omitted.

#### **New regulation 7ZA inserted into principal Regulations**

- 4. After regulation 7 (claims for remission or payment) of the principal Regulations (claims for remission or repayment)(j), there is inserted—

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- (a) The definition of “family” was substituted by regulation 2 of S.I. 1995/642, and amended by regulation 2(1)(c) of S.I. 1999/2507, regulation 2(a) of S.I. 1996/2362, and by regulation 2 of S.I. 2000/621.
- (b) 1992 c. 4.
- (c) 1995 c. 18.
- (d) S.I. 2002/2006.
- (e) 1999 c. 33.
- (f) The definition of “Limit” was substituted by regulation 2 of S.I. 2001/742.
- (g) 2002 c. 21.
- (h) See the Tax Credit (Definition and Calculation of Income) Regulations 2002 (S.I. 2002/2006).
- (i) Sub-paragraph (c) was substituted by regulation 3 of S.I. 1999/2507, and was amended by regulation 3 of S.I. 2001/742 and regulation 5 of S.I. 2001/4043. Sub-paragraph (d) was substituted by regulation 3 of S.I. 1999/2507; sub-paragraph (g) was inserted by regulation 3 of S.I. 1995/642, was substituted by regulation 3 of S.I. 1999/2507 and was amended by regulation 3 of S.I. 2002/742 and regulation 5 of S.I. 2001/4043; sub-paragraph (h) was inserted by regulation 3 of S.I. 1995/642.
- (j) Regulation 7 was amended by regulation 4 of S.I. 1999/767, regulation 7 of S.I. 2000/621, regulation 3 of S.I. 2001/3065, regulation 3 of S.I. 2001/3322, regulations 4 and 6 of S.I. 1996/410, regulation 5 of S.I. 1995/642 and regulation 4 of S.I. 1996/2362.

#### **“7ZA. Notices of entitlement**

(1) Where a person is entitled to full remission and payment because he is a member of a family described in regulation 4(2)(q), 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 on the notice of entitlement; and
- (b) all other members 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 Schedule 1 to the principal Regulations**

**5.** In Table A of Part 1 of Schedule 1 to the principal Regulations (calculation of resources), in the entry in column (2) relating to “regulation 53”—

- (a) for “£11,750”(a) there is substituted “£12,000”; and
- (b) for “£19,000”(b) there is substituted “£19,500”.

#### **Transitional provision**

**6.** Any person who, immediately before these Regulations came into force, was entitled to remission of any charges under regulation 3(1) of the principal Regulations, and who is a person described in regulation 4(2)(c), (d), (g) or (h) of the principal Regulations, shall continue to be entitled to the remission of charges until 31st July 2003, as if these Regulations had not come into force.

Signed by authority of the Secretary of State for Health

12th March 2003

*David Lammy*  
Parliamentary Under Secretary of State,  
Department of Health

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(a) The amount of £11,750 was substituted by S.I. 2002/580.  
(b) The amount of £19,000 was substituted by S.I. 2002/580.

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988 (“the principal Regulations”).

Regulation 2 omits from the principal Regulations the definitions of “amount withdrawn”, “disabled person’s tax credit” and “working families’ tax credit”, and substitutes a new definition of “family”. It also inserts into the principal Regulations, new definitions of “child tax credit”, “disability element”, “relevant income” and “working tax credit”.

Regulation 3 amends the principal Regulations by removing the exemption on the grounds of receiving working families’ tax credits or disabled person’s tax credits. It replaces them with entitlement based on receipt of working tax credit and child tax credit, which have replaced working families’ tax credits or disabled person’s tax credits under the Tax Credits Act 2002.

Regulation 4 inserts a new regulation 7ZA into the principal Regulations. New regulation 7ZA provides for the Secretary of State to issue notices of entitlement to those families who are entitled to such under the amendments contained in regulation 3 of these Regulations.

Regulation 5 amends Table A of Schedule 1 to the principal Regulations to uprate the capital limits used in remission and repayment calculations relating to people living permanently in residential care or nursing homes.

Regulation 6 is a transitional provision which provides that entitlement to remission, as evidenced by a certificate that was valid immediately before these Regulations come into force, will continue until 31st July 2003.

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