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WELSH STATUTORY INSTRUMENTS

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**2003 No. 2561 (W.250)**

**NATIONAL HEALTH SERVICE, WALES**

The National Health Service (Travelling  
Expenses and Remission of Charges)  
(Amendment) (No.2) (Wales) Regulations 2003

Made - - - - 5th October 2003  
Coming into force - - 6th October 2003

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 83A, 126(4) and 128(1) of the National Health Service Act 1977(1) 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) (No.2) (Wales) Regulations 2003 and will come into force on 6th October 2003.

(2) In these Regulations, “the principal Regulations” ( “*y prif Reoliadau*”) means the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988(2).

(3) These Regulations apply to Wales only.

**Amendment of Regulation 2 of the principal Regulations**

2.—(1) Regulation 2(1) of the principal Regulations (interpretation) is amended in accordance with the following provisions of this regulation.

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- (1) [1977 c. 49](#) ( “the 1977 Act”); section 83A was inserted by section 14(1) of the Social Security Act [1988 \(c. 7\)](#) and amended by paragraph 6 of Schedule 2 to the Health and Medicines Act [1988 \(c. 49\)](#), by paragraph 18(5) of Schedule 9 to the National Health Service and Community Care Act [1990 \(c. 19\)](#) ( “the 1990 Act”) and by 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) to Schedule 4 to the Health Act [1999 \(c. 8\)](#).  
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 sections 83A, 126(4) and 128(1) of the 1977 Act were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999, [S.I.1999/672](#), article 2 and Schedule 1 as amended by the 1999 Act, section 66(5).
- (2) [S.I.1988/551](#) as amended by [S.I.1989/394](#), [517](#) and [614](#), [1990/548](#), [918](#) and [661](#), [1991/557](#), [1992/1104](#), [1993/608](#), [1995/642](#) and [2352](#), [1996/410](#), [1346](#) and [2362](#), [1997/748](#) and [2393](#), [1998/417](#), [1999/767](#) and [2840 \(W.20\)](#), [2001/1397 \(W.192\)](#) and [3322 \(W.275\)](#) and [2003/975 \(W.134\)](#).

- (2) Omit the definitions of—  
“appropriate office”,  
“nursing home”, and  
“residential care home”.
- (3) For the definition of “capital limit” substitute the following definition—  
““capital limit”  
(a) in the case of a person who lives permanently in a care home or in accommodation provided by a local authority under sections 21 to 24 and 26 of the National Assistance Act 1948<sup>(3)</sup> is the amount prescribed in regulations made under section 22(5) of that Act<sup>(4)</sup>, and  
(b) in the case of any other person, means the amount prescribed for the purposes of section 134(1) of the Social Security Contribution and Benefits Act 1992<sup>(5)</sup>”.
- (4) In the appropriate positions in alphabetical order, insert the following definitions—  
““care home” has the meaning given in section 3 of the Care Standards Act 2000<sup>(6)</sup>;  
“pension credit guarantee credit” shall be construed in accordance with sections 1 and 2 of the State Pension Credit Act 2002<sup>(7)</sup>;  
“pension credit savings credit” shall be construed in accordance with sections 1 and 3 of the State Pension Credit Act 2002;  
“relevant income” has the meaning given in section 7(2) of the Tax Credits Act 2002<sup>(8)</sup>” .
- (5) The definition of “family” is amended in accordance with the following provisions of this paragraph—  
(a) in sub-paragraph (a) for “4(2)(q)” substitute “4(2)(e)”;  
(b) in sub-paragraph (b) for “4(2)(j) and (l)” substitute “4(2)(d)”;  
(c) in sub-paragraph (c) for “4(2)(o)” substitute “4(2)(h)”.

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

**3.—**(1) Regulation 4 of the principal Regulations (description of persons entitled to full remission and payment) is amended in accordance with the following provisions of this regulation.

- (2) For paragraph (2) of regulation 4 substitute the following paragraph—  
“(2) The persons described in this paragraph are—  
(a) a person who is in receipt of income support;  
(b) a person who is in receipt of income-based jobseeker’s allowance;  
(c) a person who is in receipt of pension credit guarantee credit;  
(d) a person who is a member of the same family as a person who is in receipt of income support, income-based jobseeker’s allowance or pension credit guarantee credit;  
(e) a person who is a member of a family one member of which is in receipt of —  
(i) working tax credit and child tax credit,

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(3) 1948 c. 49.

(4) The National Assistance (Assessment of Resources) Regulations 1992, [S.I.1992/2977](#), as amended.

(5) 1992 c. 4. The relevant regulations are the Income Support (General) Regulations 1987, [S.I.1987/1967](#).

(6) 2000 c. 14.

(7) 2002 c. 16.

(8) 2002 c. 21.

- (ii) working tax credit which includes a disability element, or
  - (iii) child tax credit, but is not eligible for working tax credit,
- provided that the relevant income of the member or members to whom the tax credit is awarded under section 14 of the Tax Credits Act 2002 is determined at the time of the award not to exceed £14,200;
- (f) a person who lives permanently in—
    - (i) a care home, or
    - (ii) accommodation provided by a local authority under sections 21 to 24 and 26 of the National Assistance Act 1948 (provision of accommodation), and who has satisfied the authority that he or she is unable to pay for that accommodation at the standard rate or, as the case may be, the full rate;
  - (g) an asylum-seeker for whom support is provided under Part VI of the Immigration and Asylum Act 1999;
  - (h) a member of the same family as an asylum-seeker described in sub-paragraph (g);
  - (i) a relevant child within the meaning of section 23A of the Children Act 1989<sup>(9)</sup> to whom a responsible local authority is supporting under section 23B(8) of that Act;
  - (j) a person whose requirements equal or exceed his or her income resources and whose capital resources do not exceed the capital limit;
  - (k) a member of the same family as a person described in sub-paragraph (j);”.

#### **Amendment of regulation 7 of the principal Regulations**

4.—(1) Regulation 7 of the principal Regulations (claims of remission and payment) is amended in accordance with the following provisions of this regulation.

(2) For sub-paragraph (1)(a) of regulation 7 substitute the following sub-paragraph—

“(a) if he or she is a person within a description prescribed by regulation 4(2)(f), (g), (h), (i), (j) or (k) or regulation 5(1) make a claim to the National Assembly for Wales on a form either provided for the purpose by it or approved by it;”.

(3) For paragraph (6) of regulation 7 substitute the following paragraph —

“(6) Subject to paragraph (8), a notice of entitlement issued under paragraph (4) is effective for a period of 12 months beginning on the date of the claim except that —

- (a) in the case of a notice issued to a full-time student in the final or only year of a course of study, it is valid until the last day of the course;
- (b) in the case of a notice issued to a relevant child, it is valid for a period of 12 months or until the child’s 18th birthday, whichever is the later;
- (c) in the case of a notice issued to a person described in regulation 4(2)(g) or 4(2)(h) (asylum-seeker and member of the family of an asylum-seeker), it is 6 months beginning on the date of the claim;
- (d) in the case of a notice issued to a person described in regulation 4(2)(e) (tax credit and member of the family), it is valid from such date and for such period as the National Assembly for Wales may determine.”.

(4) Omit paragraph (6A) of regulation 7.

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(9) 1989 c. 41.

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**Amendment of regulation 7ZA of the principal Regulations**

5. Omit regulation 7ZA of the principal regulations.

**Amendment to Part I of Schedule 1 to the principal Regulations**

6.—(1) Part I of Schedule 1 to the principal Regulations (Calculation of resources) is amended in accordance with the following provisions of this regulation.

(2) In paragraph 2 for sub-paragraph (d) substitute the following sub-paragraph—

“(d) as if the State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) Regulations 2002(10) had not been made.”.

(3) Table A (modifications of provisions of the Income Support (General) Regulations 1987(11) for the purposes of Part I of this Schedule) is amended in accordance with the following provisions of this paragraph—

(a) After the entry relating to regulation 25 insert the following entry—

“regulation 25A	Omit this regulation.”;
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(b) For the entry relating to regulation 32 substitute the following entry—

“regulation 32	In paragraph (1) for regulation 29“???” substitute “regulation 28” and for “subject to paragraphs (2) to (7)” substitute “subject to paragraph (6)”.
	In paragraph (6) omit “and has changed more than once”.
	Omit paragraphs (3) — (5), (6A) and (7).”;

(c) After the entry relation to regulation 32 insert the following entry—

“regulation 35	Omit paragraphs (1)(c), (1)(g), (1)(i), (1A) and (2A).
	In paragraph (1)(d) omit the words after “employment”.
	In paragraph (2)(a) omit the words “subject to paragraph (2A)”.”;

(d) In the entry relating to regulation 38—

(i) substitute the following modification in respect of paragraph (4)—

“In paragraph (4) after “the net profit of the employment” insert “, except where paragraph (3A) or (9) applies”.”;
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(ii) omit the modification in respect of paragraph (4A);

(10) S.I.2002/3019.  
(11) S.I.1987/1967

(e) After the entry relating to regulation 38 insert the following entry—

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“regulations 39A-D	Omit these regulations.”;
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(f) For the entry relating to regulation 40 substitute the following entry —

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“regulation 40	In paragraph (1) for “regulation 29 (calculation of income other than earnings)” substitute “regulation 28 (calculation of income)” and for “paragraphs (2) to (3B)” substitute “paragraphs (2) and (3)”.
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Omit paragraphs (3A) to (5).” ;

(g) For the entry relating to regulation 45 substitute the following entry—

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“regulation 45	For this regulation substitute—
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**“Capital Limit**

**45.** For the purposes of regulation 5(1) of the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988 the capital limit is—

- (a) for a claimant under 60, or if the claimant has a partner, where both are under 60 — £8,000;
- (b) for a claimant permanently residing in accommodation as defined in regulation 19A — £19,500;
- (c) for a claimant 60 or over, of if the claimant has a partner, where either or both are 60 or over, and neither is permanently residing in accommodation as defined in Regulation 19A— £12,000.””

(h) After the entry relating to regulation 49 insert the following entries—

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“regulation 51	Omit sub-paragraph (1)(b).
regulation 51A	Omit this regulation.”;

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(i) For the entry relating to regulation 53 substitute the following entry—

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“regulation 53	In paragraph (1A) for “£10,000” on each occasion it appears substitute “£12,000” and for “£16,000” substitute “£19,500”.
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For paragraph (1B) substitute—

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“(1B) For the purposes of paragraph (1A) and regulation 45, the prescribed circumstances are that the claimant lives permanently in accommodation as set out in Regulation 19A.”.

In paragraph (3) for the reference to “regulation 60” substitute reference to “regulation 25”.”;

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(j) In the entry relating to Schedule 9—

(i) after the modification in respect of paragraph 16 insert the following modification—

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“In paragraph 19 for “£4.00” substitute “£20.00” and omit sub-paragraph (b).”;

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(ii) After the modification in respect of paragraph 37 insert the following modification—

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“After paragraph 77 insert the following paragraph—

“77A Any payment of State Pension Credit Savings Credit as defined under sections 1 and 3 of the State Pensions Credit Act 2002.””

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### **Amendment of Part II of Schedule 1 to the principal Regulations**

7.—(1) Part II of Schedule 1 to the principal Regulations (Calculation of requirements) is amended in accordance with the following provisions of this regulation.

(2) Table B (modifications of provisions of the Income Support (General) Regulations 1987 for the purposes of Part II of this Schedule) is amended in accordance with the following provisions of this paragraph—

(a) For the entry relating to regulation 18 substitute the following entry—

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“regulation 18

In paragraph (1) for the words from “regulations 21 to 22A” to “urgent cases” substitute “regulations 19A and 21 (special cases)”.

Omit paragraph (1)(cc) and (h).

After regulation 18 insert the following regulation —

#### **“Care Homes**

**119A.**—(1) Where the claimant lives permanently in —

(a) a care home within the meaning of section 3 of the Care Standards Act 2000; or

(b) in accommodation provided by a local authority under sections 21 to 24 and 26 of the National Assistance Act 1948; and and the claimant is a resident of such accommodation due to his or her personal circumstances and not as a carer, then the claimant’s weekly applicable amount will be calculated in accordance with Part I of Schedule 4A.”.”;

(b) Omit the entry relating to regulation 19;

(c) For the entry relating to regulation 21 substitute the following entry—

“regulation 21

In paragraph (1) omit the words from “Subject to” to “amounts”.

In paragraph (3) omit the definition “partner of a person subject to immigration control”.

In paragraph (3) omit the definition of “person from abroad”.

Omit paragraphs (1B), (2), (3A), (3B), (3C), (3D), (3E), (3F), (4), (4A), (4B) and (5).”;

(d) After the entry relating to regulation 21 insert the following entry—

“regulations 21ZB and 22A

Omit these regulations.”;

(e) In the entry relating to Schedule 2—

(i) for the modification in respect of paragraph 1 substitute the following modification—

“In column (1) of the Table for sub-paragraphs (1) to (3) substitute —

- “(1) Single Person aged not less than 25;
- (2) Lone Parent;
- (3) Single Person aged less than 25;
- (4) Couple”.

In column (2) of the Table (amounts) insert —

- (a) against sub-paragraph (1) of column (1), the amount prescribed in paragraph 1(e) of column (2) in the unmodified regulations;
- (b) against sub-paragraph (2) of column (1), the amount prescribed in

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- paragraph 1(e) of column (2) in the unmodified regulations;
- (c) against sub-paragraph (3) of column (1), the amount prescribed in paragraph 1(b) of column (2) in the unmodified regulations; and
- (d) against sub-paragraph (4) of column (1), the amount prescribed in paragraph 3(d) of column (2) in the unmodified regulations.”;

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(ii) for the modification in respect of paragraph 2 substitute the following modification —

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“In paragraph 2(1) omit “for the relevant period specified in column (1)”.”;

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(iii) After the modification in respect of paragraph 10 insert the following modification—

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“omit paragraphs 10(3) and 10(4).”;

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(f) In the entry in relation to Schedule 3—

(i) After the modification in respect of paragraph 1 insert the following modification—

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“omit paragraph 1A.”;

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(ii) In the modification in respect of paragraph 3 for the words “sub-paragraphs (8)” substitute “sub-paragraphs (7)””;

(iii) In the modification in respect of paragraph 4 for the words “residential care home or a nursing home” substitute “care home or accommodation provided by a local authority under sections 21 to 24 and 26 of the National Assistance Act 1948”;

(g) After the entry in relation to Schedule 3 insert the following entry—

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“Schedule 3B

After Schedule 3B insert the following schedule —

**“Schedule 4A**

**Applicable amounts of a person in accommodation within the meaning of regulation 19A.**

**1.—(1)** The applicable amount of a claimant to whom regulation 19A applies shall be the aggregate of —

- (a) subject to paragraphs 1 (2) and 2, the weekly charge for the accommodation, including all meals and services provided for the claimant or, if the claimant is a member of a family, for the claimant and his



or her family, increased, where appropriate, in accordance in paragraph 2; and

- (b) a weekly amount for personal expenses for the claimant and, if the claimant is a member of a family, for each member of his or her family determined in accordance with paragraph 2.

(2) Except where otherwise provided, no amount shall be included in respect of a child or young person who is a member of the claimant's family if the capital of that child or young person calculated in accordance with Part V in like manner as for the claimant would exceed £3,000.

2.—(1) The appropriate allowance for personal expenses for the claimant and his or her partner (where appropriate) will be that set out in Schedule 9 to the Social Security Claims and Payments Regulations 1987(12) at paragraph 4(2A) (a).

(2) Where the claimant has a dependant child or children residing with him or her, the personal expenses allowed for each dependant will be that set out in Schedule 9 to the Social Security Claims and Payments Regulations 1987 at paragraph 4(2A)(a).”

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(h) Omit the entry relating to Schedule 4;

(i) For the entry relating to Schedule 7 substitute the following entry—

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“Schedule 7

In paragraph 1 omit the references to sub-paragraph (g) of regulation 17(1) and sub-paragraph (h) of regulation 18(1).

In column (2) of paragraph 1 omit the references to sub-paragraph (g) or regulation 17(1) and sub-paragraph (h) of regulation 18(1).

Omit both columns of paragraphs 6, 7, 10A, 10B, 10C, 16A, 17 and 19A.

In column (1) of paragraph 9 for sub-paragraphs (a)(i) and (ii) substitute the following—

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- (a) (i) in a care home, or
- (ii) is in accommodation provided by a local authority under sections 21 to 24 and 26 of the National Assistance Act 1948”.

In column (1) of paragraphs 9(b)(iii) and (iv) substitute—

- (b) (i) in a care home, or
- (ii) is in accommodation provided by a local authority under sections 21 to 24 and 26 of the National Assistance Act 1948.”.

After paragraph 10 insert the following paragraph—

into column (1)—

“**10ZA** A claimant who is a lone parent who is temporarily in a care home or in accommodation provided by a local authority under sections 21 to 24 and 26 of the National Assistance Act 1948.”.

into column (2) —

“Any amount applicable to the claimant under paragraphs 1(1)(a), (b) and (c) of Schedule 4A, determined as if he or she were a single claimant plus—

- (a) in respect of each child who is a member of the claimant’s family, the appropriate amount in respect of that child prescribed in paragraph 2 of Schedule 2 or under this Schedule as appropriate; and
- (b) any amount which would be applicable to the claimant, if he or she were not living away from home, under regulation 17(1)(c) or (d) in so far as it relates to the lone parent premium and family premium under paragraph 8 of Schedule 2.”.

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#### **Amendment to Schedule 1A to the principal Regulations**

8. Omit Schedule 1A to the principal Regulations (periods of validity of notices of entitlement).

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(13)

5th October 2003

*D. Elis-Thomas*  
The Presiding Officer of the National Assembly

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## EXPLANATORY NOTE

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

These Regulations further amend the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988 ( “the principal Regulations”) which provide for the remission of National Health Service charges and for the payment of travelling expenses in certain cases.

Many persons entitled to the remission of NHS charges and to the payment of travelling expenses are not automatically entitled because they receive certain state benefits. The principal Regulations contain provision for a calculation of a claimant’s income, capital and requirements (and those of his or her family, where relevant). This calculation is made applying the modified provisions of the Income Support (General) Regulations 1987 that are set out in Schedule 1 to the principal Regulations.

By virtue of the State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) Regulations 2002 persons over the age of 60 years are no longer entitled to income support and are excluded from the 1987 Regulations. The amendments made by these Regulations are intended to preserve the position of such persons.

Additionally, regulation 3 of these Regulations substitutes a new regulation 4(2) into the principal Regulations which simplifies the description of persons entitled to full remission and repayment.