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SCOTTISH STATUTORY INSTRUMENTS

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**1999 No. 64**

**NATIONAL HEALTH SERVICE**

**The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No.2) Regulations 1999**

*Made* - - - - 13th September 1999  
*Laid before the Scottish Parliament* - - - - 14th September 1999  
*Coming into force* - - 5th October 1999

The Scottish Ministers, in exercise of the powers conferred on them by sections 26, 70(1), 73(a), 74(a), 105(7) 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 them in that behalf, hereby make the following Regulations:

**Citation, commencement and interpretation**

1. These Regulations may be cited as the National Health Service (Optical Charges and Payments) (Scotland) Amendment (No.2) Regulations 1999 and shall come into force on 5th October 1999.

2. In these Regulations “the principal Regulations” means the National Health Service (Optical Charges and Payments) (Scotland) Regulations 1998(2)

**Amendment of regulation 1 of the principal Regulations**

3.—(1) Regulation 1 of the principal Regulations (interpretation) shall be amended in accordance with this regulation.

(2) In paragraph (2)–

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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, was amended by the Health Service Act 1980 (c. 53), Schedule 6, paragraph 5 and Schedule 7, by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 9, paragraph 24 and by the Health Act 1999 (c. 8), Schedule 4, paragraph 60; 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). The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(2) S.I.1998/642, amended by S.I.1999/748.

- (a) after the definition of “the Agency” there is inserted–
- ““amount withdrawn” means the amount by which the appropriate maximum disabled person’s tax credit or working families’ tax credit, as the case may be, determined in accordance with section 129(8) or 128(5) of the Social Security Contributions and Benefits Act 1992(3) as the case may be, is reduced by virtue of the claimant’s income exceeding the applicable amount;”;
- (b) for the definition of “disability working allowance” there is substituted–
- ““disabled person’s tax credit” means disabled person’s tax credit under section 129 of the Social Security Contributions and Benefits Act 1992;”;
- (c) the definition of “family credit” is omitted;
- (d) after the definition of “supply” there is inserted–
- ““working families’ tax credit” means working families’ tax credit under section 128 of the Social Security Contributions and Benefits Act 1992;”;
- (e) for the definition of “responsible authority” there is substituted–
- ““responsible authority” means–
- (a) in relation to–
- (i) a voucher completed pursuant to Part III, the Health Board for the area in which the testing of sight takes place;
- (ii) a payment made pursuant to Part III, the Agency;
- (b) in relation to a voucher issued or completed pursuant to Part IV, otherwise than by an NHS trust, the Health Board for the area in which the supply of the optical appliance to which it relates takes or is to take place, except in regulation 13 where it means the Agency;
- (c) in relation to a voucher issued or completed pursuant to Part IV by an NHS trust, the Health Board in whose area the patient resides, except in regulation 13 where it means the Agency;
- (d) in relation to a voucher issued or completed pursuant to Part V, otherwise than by an NHS trust, the Health Board for the area in which the replacement or repair of the optical appliance to which it relates takes or is to take place, except in regulations 15(1)(b) and (2), 16(6) and 18 where it means the Agency;
- (e) in relation to a voucher issued or completed pursuant to Part V by an NHS trust, the Health Board in whose area the patient resides, except in regulations 15(1)(b) and (2), 16(6) and 18 where it means the Agency;
- (f) in relation to a payment made pursuant to Part VI, 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, except in regulation 20(3), (4), (5), (6) and (7) where it means the Agency;
- (g) in relation to a payment made pursuant to Part VI by an NHS trust, the Health Board in whose area the patient resides, except in regulation 20(3), (4), (5), (6) and (7) where it means the Agency.”.
- (f) for the definition of “voucher” there is substituted–
- ““voucher” for the purpose of enabling a payment to be made under these Regulations means–

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(3) 1992 (c. 4); sections 128 and 129 were amended by the Tax Credits Act 1999 (c. 10), Schedule 1, paragraphs 2(g) and (h).

- (a) in Part III, a voucher form supplied by the Health Board to those whose names are included in its ophthalmic list;
  - (b) in Part IV, a voucher form supplied—
    - (i) where a testing of sight is carried out otherwise than by an NHS trust, by the Health Board to the person who carries it out;
    - (ii) where a testing of sight is carried out by an NHS trust, by the NHS trust;
  - (c) in Part V, a voucher form supplied to the supplier by the Health Board.”
- (3) In paragraph (3A) for “Board” there is substituted “Health Board.”(4)

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

4. In regulation 2(2) (charges for glasses and contact lenses) “Health Board or” is omitted.

#### **Amendment of regulation 8 of the principal Regulations**

5. In regulation 8 (eligibility – supply of optical appliances)—
- (a) in paragraph (1)(b) the words “and within the Health Board area in which the person whose sight was tested normally resides” are omitted;
  - (b) for paragraph (3)(c) there is substituted—
    - “(c) he is in receipt of working families' tax credit with an amount withdrawn of £70 or less;”;
  - (c) for paragraph (3)(d) there is substituted—
    - “(d) he is a member of the same family as a person who is in receipt of working families' tax credit with an amount withdrawn of £70 or less;”;
  - (d) for paragraph (3)(g) there is substituted—
    - “(g) he is in receipt of disabled person’s tax credit with an amount withdrawn of £70 or less;”;
  - (e) in paragraph (4)(b) for the words “family credit” there is substituted “working families' tax credit;”;
  - (f) in paragraph (4)(c) for the words “disability working allowance” there is substituted “disabled person’s tax credit;”;
  - (g) in paragraph (5)—
    - (i) for the words “a Health Board or” there is substituted “an”;
    - (ii) “Health Board or” is omitted.

#### **Amendment of regulation 10 of the principal Regulations**

6. In regulation 10 (issue of vouchers by Health Boards and NHS trusts in connection with the hospital eye service)—
- (a) in the heading “Health Boards and” is omitted;
  - (b) in paragraphs (1) and (2) “Health Board or” is omitted in both places where it appears.

#### **Amendment of regulation 11 of the principal Regulations**

7. In regulation 11 (issue of replacement vouchers by the Agency, Health Boards or NHS trusts)—

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(4) Paragraph (3A) was inserted by [S.I.1999/748](#).

- (a) in the heading “Health Boards” is omitted;
- (b) “, a Health Board” is omitted.

#### **Amendment of the Schedules to the principal Regulations**

**8.** In Schedule 1 to the principal Regulations (voucher letter codes and face values – supply and replacement)(5) in column 1 in relation to each of letter codes I and J the words “a Health Board or” are omitted.

**9.** In Schedule 3 (prisms, tints, photochromic lenses, small glasses and special frames and complex appliances) in paragraph 1(1)(g)–

- (a) for the words “a Health Board or” there is substituted “an”;
- (b) the words “Health Board or” where they occur in the second place are omitted.

#### **Transitional provision**

**10.** Where before 5th October 1999 a person’s resources were treated as being less than his requirements by virtue of regulation 8(3)(c) or (d) of the principal Regulations (eligibility for payment to meet, or to contribute towards the cost of supplying an optical appliance by reference to receipt of family credit) or regulation 8(3)(g) or (h) of those Regulations (eligibility for payment to meet, or to contribute towards the cost of supplying an optical appliance by reference to receipt of disability working allowance), those resources shall continue to be so treated for so long as family credit or disability working allowance, as the case may be, remains in payment.

St Andrew’s House,  
Edinburgh  
13th September 1999

*SUSAN C DEACON*  
A member of the Scottish Executive

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(5) Schedule 1 was substituted by [S.I.1999/748](#).

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## EXPLANATORY NOTE

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

These Regulations amend the National Health Service (Optical Charges and Payments) (Scotland) Regulations 1998 (S.I.1998/642) (“the principal Regulations”), 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 sight tests and the supply, replacement and repair of optical appliances.

These Regulations amend the principal Regulations to delete references to Health Board, where appropriate in relation to services provided by or on behalf of NHS trusts (regulations 4, 5(a) and (g), 6, 7, 8 and 9).

Regulation 3(2)(e) substitutes a new definition of “responsible authority” to insert references to the Agency to reflect the transfer of payment functions to the Common Services Agency in relation to services provided by or on behalf of NHS trusts. Regulation 3(2)(f) substitutes a new definition of “voucher”.

Regulation 5(a) amends regulation 8 of the principal Regulations to make it clear that where a sight test takes place otherwise than under the 1978 Act the person does not have to reside in the area where the test took place to be eligible to receive a voucher.

The Regulations amend the categories of eligibility for payments to meet or to contribute towards the cost of supplying an optical appliance, to include people in receipt of disabled person’s tax credit and working families’ tax credit, which replace disability working allowance and family credit respectively (regulations 3(2)(a) to (d) and 5(b) to (f)). Regulation 10 makes provision in connection with people in receipt of disability working allowance and family credit during the transitional period.