SCOTTISH STATUTORY INSTRUMENTS

2003 No. 218

NATIONAL HEALTH SERVICE

The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No. 2) Regulations 2003

Made - - - - 25th March 2003
Laid before the Scottish Parliament - - - - 26th March 2003
Coming into force in accordance with regulation 1(2) and (3)

The Scottish Ministers, in exercise of the powers conferred 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.—(1) These Regulations may be cited as the National Health Service (Optical Charges and Payments) (Scotland) Amendment (No. 2) Regulations 2003.

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

(3) Regulation 2 shall come into force on 31st March 2003 and regulations 3(2), (3) and (4) and 5 shall come into force on 6th April 2003.

(4) In these Regulations–

(a) "the 1998 Regulations" means the National Health Service (Optical Charges and Payments) (Scotland) Regulations 1998(**2**); and

(b) "eligible person" has the same meaning as in regulation 1(2) of the 1998 Regulations.

(**1**) 1978 (c. 29); section 26 was amended by the Health and Social Security Act 1984 (c. 48) ("the 1984 Act"), section 1(5), 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(7) was amended by the Health Services Act 1980 (c. 53), Schedule 6, paragraph 5 and Schedule 7 and by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 9, paragraph 24; 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 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, S.S.I. 1999/64, 2000/45 and 395, 2001/88, 2002/17, 86 and 224 and 2003/200.

Revocation

2. The National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 2003(**3**) are hereby revoked.

Amendment of the 1998 Regulations

3.—(1) The 1998 Regulations are amended as follows.

(2) In regulation 1 (citation, commencement and interpretation)(**4**), paragraph (2)–

(a) after the definition of "child", insert–

""child tax credit" means child tax credit under the Tax Credits Act 2002(**5**);";

(b) after the definition of "complex appliance", insert–

""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", insert–

""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 "supply", insert–

""tax credit" has the same meaning as in section 1(2) of the Tax Credits Act 2002;";

(e) after the definition of "voucher", insert–

""working tax credit" means working tax credit under the Tax Credits Act 2002;"; and

(f) omit the definitions of "amount withdrawn", "disabled person's tax credit" and "working families' tax credit".

(3) In regulation 8 (eligibility – supply of optical appliances)(**6**)–

(a) in paragraph (3)–

(i) after sub-paragraph (j), insert–

"(k) he is a member of a family–

(i) one member of which 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;";

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

(l) he is a member of a family in respect of whom there is a current notice of entitlement under regulation 12A";

(ii) omit sub paragraphs (c), (d), (g) and (h); and

(**3**) S.S.I. 2003/200.
(**4**) Regulation 1 was amended by S.I. 1998/642 and S.S.I. 1999/64, 2000/45 and 395, 2001/88 and 2002/17.
(**5**) 2002 c. 36.
(**6**) Regulation 8 was amended by S.I. 1999/748 and S.S.I. 1999/64, 2001/88 and 2002/86.

(b) for paragraph (4), substitute–

"(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, 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(**7**); and

(c) in sub paragraphs (k) and (l), "family" has the meaning given to it by regulation 2(2) of the Tax Credits (Definition and Calculation of Income) Regulations 2002(**8**).".

(4) After regulation 12 (use of vouchers for the supply of optical appliances), insert–

"**Notice of entitlement**

12A.—(1) Where a person is entitled to the payment of, or a 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)(k), the Scottish Ministers shall issue a notice of entitlement under this regulation 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 Scottish Ministers 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.

(5) A notice of entitlement means a notice issued under this regulation and not under regulation 7 of the Remission Regulations(**9**).".

(5) In regulation 19 (redemption value of voucher for replacement or repair)(**10**)–

(a) in paragraph (1)(b) for "£44.60" substitute "£45.70";

(b) in paragraph (3)(a) for "£11.50" substitute "£11.80"; and

(c) in paragraph (3)(b) for "£50.20" substitute "£51.50".

(6) In Schedule 1 (voucher letter codes and face values – supply and replacement)(**11**) in column 3 (face values of voucher) for each amount specified in column 1 of the table below (old amount) substitute the amount specified in relation to it in column 2 of that Table (new amount).

(**7**) 1995 c. 18.
(**8**) S.I. 2002/2006.
(**9**) 1988/546. Regulation 7 was amended by S.I. 1993/642, 1995/700, 1996/429 and 2391 and 1997/1012.
(**10**) Regulation 19 was amended by S.I. 1999/748, S.S.I. 2000/45, 2001/88 and 2002/86.
(**11**) Schedule 1 was substituted by S.I. 1999/748, and subsequently amended by S.S.I. 1999/64, 2000/45, 2001/88 and 2002/86.