WELSH STATUTORY INSTRUMENTS

2004 No. 1042 (W.124)

NATIONAL HEALTH SERVICE, WALES

The National Health Service (Travelling Expenses and Remission of Charges) and (Optical Charges and Payments) and (General Ophthalmic Services) (Amendment) (Wales) Regulations 2004

Made - - - -	*1st April 2004*
Coming into force - -	*6th April 2004*

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 38, 78(1), 83A, 126(4) and 128(1) of and paragraph 2A of Schedule 12 to, 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) and (Optical Charges and Payments) and (General Ophthalmic Services) (Amendment) (Wales) Regulations 2004 and will come into force on 6th April 2004.

(2) In these Regulations —

(**1**) 1977 c. 49 ("the 1977 Act"). Section 38 was amended by the Health Services Act 1980 (c. 53), section 1, and Schedule 1, paragraph 51; by the Health and Social Security Act 1984 (c. 48)("the 1984 Act"), section 1(3); by S.I.1985/39, article 7(11); by the Health and Medicines Act 1988 (c. 49)("the 1988 Act"), section 13(1); and by the Health Authorities Act 1995 (c. 17), Schedule 1, paragraph 27. Section 78(1) was amended by the 1988 Act, section 25 and Schedule 3. 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; by Schedule 4, paragraph 37(6) to the Health Act 1999 (c. 8); by section 2(5) of and paragraphs 5 and 13 of Schedule 2 to the Health and Social Care Act 2001 (c. 15) and sections 6(3) and 37(1) of the National Health Service Reform and Health Care Professions Act 2002 (c. 17). Paragraph 2(1) of Schedule 12 was substituted by the 1988 Act, Schedule 2, paragraph 8(1); Paragraph 2A of Schedule 12 was inserted by the 1984 Act, schedule 1, Part 1, paragraph 3 and was amended by the 1988 Act, section 13(2) and (3). *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 sections 38, 78(1), 83A, 126(4) and 128(1) of the National Health Service Act 1977 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(4); section 68(1) of the Health and Social Care Act 2001 (c. 15); section 40(1) of the National Health Service Reform and Health Care Professions Act 2002 (c. 17) and section 197(1) of the National Health and Social Care (Community Health and Standards) Act 2003 (c. 43).

"the 1988 Regulations" ("*Rheoliadau 1988*") means the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988(**2**);

"the 1997 Regulations" ("*Rheoliadau 1997*") means the National Health Service (Optical Charges and Payments) Regulations 1997(**3**);

"the 1986 Regulations" ("*Rheoliadau 1986*") means the National Health Service (General Ophthalmic Services) Regulations 1986(**4**).

(3) These Regulations apply to Wales only.

Amendment of regulation 4 of the 1988 Regulations

2. In regulation 4(2)(j) of the 1988 Regulations (description of persons entitled to full remission and payment), for "requirements equal or exceed his or her income resources", substitute "income resources do not exceed his or her requirements or exceed his or her requirements by fifty per cent or less of the amount of the charge specified in regulation 3(1)(b) (supply of drugs and appliances by chemists) of the National Health Service (Charges for Drugs and Appliances) Regulations 2000"(**5**).

Amendment of regulation 8 of the 1997 Regulations

3. In regulation 8(3)(e) of the 1997 Regulations (eligibility — supply of optical appliances), after "requirements as so calculated", insert "or exceed his requirements as so calculated by fifty per cent or less of the amount of the charge specified in regulation 3(1)(b) (supply of drugs and appliances by chemists) of the National Health Service (Charges for Drugs and Appliances) Regulations 2000".

Amendment of regulation 13 of the 1986 Regulations

4. In regulation 13(2)(e) of the 1986 Regulations (sight tests — eligibility), for "or equal to his requirements as so calculated", substitute "his requirements as so calculated or exceed his requirements as so calculated by fifty per cent or less of the amount of the charge specified in regulation 3(1)(b) (supply of drugs and appliances by chemists) of the National Health Service (Charges for Drugs and Appliances) Regulations 2000".

Use of these Regulations

5.—(1) Where a person's entitlement to payment of National Health Service travelling expenses or the full remission of a National Health Service charge under regulation 4 of the 1988 Regulations is determined on or after the 6th April 2004, it must be determined in accordance with the amendment made by regulation 2 of these Regulations irrespective of when the charge is made or the National Health Service travelling expenses are incurred.

(2) Where a person's entitlement to a payment for or towards the cost of an optical appliance under regulation 8 of the 1997 Regulations, or a person's eligibility for a sight test under regulation 13 of the 1986 Regulations is determined on or after the 6th April 2004, such entitlement or eligibility must be determined in accordance with the amendments made by regulations 3 or 4 of these Regulations.

(**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.92) and 3322 (W.275), 2003/975 (W.134) and 2003/2561 (W.250).

(**3**) S.I.1997/818; the relevant amending instruments are S.I.1997/2488, 1998/499, 1999/609, 2000/978 (W.48), 2000/3119 (W.198), 2001/1362 (W.90) and 1423 (W.98), 2002/186 (W.25) and 1506 (W.151), 2003/301(W.43) and 955 (W.129).

(**4**) S.I.1986/975; the relevant amending instruments are S.I.1988/558, 1989/395 and 1175, 1990/1051, 1991/583, 1992/404, 1995/558, 1996/705 and 2320, 1999/693, 1999/2481(W.21), 2001/1362 (W.90) and 2003/955(W.129).

(**5**) S.I.2000/620; as amended by 2000/2393 and 3189, 2001/746 and 2887, 2002/548, 1386 and 2352, 2003/585, 699 and 1084 and 2004/633.