WELSH STATUTORY INSTRUMENTS

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.

(**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(**3**) is the amount prescribed in regulations made under section 22(5) of that Act(**4**), 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(**5**);".

(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(**6**);

"pension credit guarantee credit" shall be construed in accordance with sections 1 and 2 of the State Pension Credit Act 2002(**7**);

"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(**8**);" .

(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,

(**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(**9**) 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.

(**9**) 1989 c. 41.

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.";

(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".";

(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—

"regulations 39A-D	Omit these regulations.";

(f) For the entry relating to regulation 40 substitute the following entry —

"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)". Omit paragraphs (3A) to (5)." ;

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

"regulation 45	For this regulation substitute— "**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—

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

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

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