WELSH STATUTORY INSTRUMENTS

2003 No. 975 (W.134)

NATIONAL HEALTH SERVICE, WALES

The National Health Service (Travelling Expenses and Remission of Charges) (Amendment) (Wales) Regulations 2003

Made - - - -	*1st April 2003*
Coming into force —	
except for regulation 12	*6th April 2003*
regulation 12	*7th April 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) (Wales) Regulations 2003 and will come into force —

(a) except for regulation 12, on 6th April 2003, and

(b) regulation 12, on 7th April 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.

(**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 Schedule 4, paragraph 37(6) to the Health Act 1999 (c. 8).
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 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 and 2001/1397 and 3322.

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.

(2) Omit the definitions of —

"amount withdrawn;"

"disabled person's tax credit;"

"working families' tax credit;".

(3) In the appropriate position in alphabetical order, insert the following definitions—

""child tax credit" ("*credyd treth i blant*") means child tax credit under section 8 of the Tax Credits Act 2002(**3**);

"disability element" means the disability element of working tax credit as specified in section 11(3) of the Tax Credits Act 2002;

"gross annual income" means income that is calculated for a tax year for the purposes of Part I of the Tax Credits Act 2002 in accordance with regulations made under section 7 of that Act;

"local health board" has the meaning assigned to it by section 16BA of the Act(**4**);

"port" includes an airport, ferry port or international train station in Great Britain from which an international journey begins;

"working tax credit" ("*credyd treth i bobl sy'n gweithio*") means working tax credit under section 10 of the Tax Credits Act 2002;".

(4) For the definition of "family" substitute—

""family" has the meaning assigned to it by section 137(1) of the Social Security Contributions and Benefits Act 1992(**5**) as it applies to income support, except that—

(a) in regulation (4)(2)(q) it has the meaning assigned to it by regulation 2(2) of the Tax Credits (Definition and Calculation of Income) Regulations 2002(**6**);

(b) in regulation 4(2) (j) and (l) it has the meaning assigned to it by section 35 of the Jobseekers Act 1995(**7**);

(c) in regulation 4(2)(o) it means any dependant, as defined in section 94 of the Immigration and Asylum Act 1999(**8**)who has been included in a claim by an asylum-seeker under Part VI of that Act.".

Amendment of regulation 3 of the principal Regulations

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

(2) In paragraph (3)(a), after the words "in attending a hospital" insert "or any other place".

(3) In paragraph (3)(b), for the words "health authority" substitute "local health board".

(4) After paragraph 3(b), insert the following sub-paragraphs—

"(c) in attending an establishment managed by a local health board for the purpose of availing himself of services provided under the care of a consultant in pursuance of the Act,

(**3**) 2002 c. 21.
(**4**) Section 16BA was inserted by the Health Service Reform and Health Care Professions Act 2002.
(**5**) 1992 c. 24.
(**6**) S.I. 2002/2006.
(**7**) 1995 c. 18.
(**8**) 1999 c. 33.

(d) in travelling to a port in Great Britain for the purpose of travelling to a destination outside the United Kingdom in order to receive treatment provided pursuant to arrangements made under section 23 of the Act or paragraph 13 of Schedule 2 to the National Health Service and Community Care Act 1990(**9**),".

Insertion of regulation 3A into the principal Regulations

4. After regulation 3 of the principal Regulations insert the following regulation—

"**Entitlement to payment for travel abroad**

3A.—(1) Where a person receives services provided outside the United Kingdom pursuant to arrangements made under section 23 of the Act or paragraph 13 of Schedule 2 to the National Health Service and Community Care Act 1990, that person is entitled, subject to paragraph (2), to payment or repayment of the whole amount of the travelling expenses incurred by him in travelling from a port in Great Britain to a destination outside the United Kingdom in order to receive treatment there (including the travelling expenses of a companion in a case where it is necessary on medical grounds that the person should be accompanied).

(2) The entitlement to payment in paragraph (1) is dependent upon the health service body which has made the arrangements agreeing the mode and cost of the travel before costs are incurred.

(3) For the purposes of this regulation and regulations 3(3)(d), 5A, 7B and 8 "health service body" means a local health board, an NHS Trust or the National Assembly for Wales.".

Amendment of regulation 4 of the principal Regulations

5.—(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 the opening words of regulation 4 substitute the following —

"(1) Regulation 3(1) applies —

(a) in the case of the charges for dental appliances and dental treatment mentioned in regulation 3(2)(b)—

(i) to any person who either, at the time the arrangements for the treatment are made, or at the time the relevant charges are made, is a person described in paragraph (2), and

(ii) as respects the course of treatment to which the relevant charges relate;

(b) in any other case to any person mentioned in paragraph (2) who, at the time when the relevant charges are made or when the relevant travelling expenses are incurred, is a person described in paragraph (2).

(2) The persons described in this paragraph are—".

(3) In regulation 4(2)—

(a) for sub-paragraph (n) substitute the following sub-paragraph—

"(n) an asylum-seeker for whom support is provided under Part VI of the Immigration and Asylum Act 1999; or";

(b) after sub-paragraph (n) insert the following sub-paragraphs—

(**9**) 1990 c. 19.

"(o) a member of the same family as a person described in paragraph (n) of this regulation; or

(p) a relevant child within the meaning of section 23A of the Children Act 1989(**10**) whom a responsible local authority is supporting under section 23B(8) of that Act.

(q) a person who is a member of a family—

(i) that has a gross annual income of £14,200; and

(ii) 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 to receive working tax credit.";

(c) sub-paragraphs (c), (d), (g) and (h) are omitted.

Amendment of regulation 5A of the principal Regulations

6.—(1) Regulation 5A of the principal Regulations (payment of travelling expenses) is amended in accordance with the following provisions of this regulation.

(2) In the opening words of regulation 5A after the words "made under regulation 3(1)" insert ", 3A".

(3) For paragraph (a) substitute the following paragraph—

"(a) in a case where the travelling expenses are incurred or to be incurred by a person in attending a hospital or any other place which is managed by an NHS trust or a local health board, by that NHS trust or that local health board;".

(4) After paragraph (a) insert the following paragraph—

"(aa) in a case falling within regulations 3(3)(d) or 3A, by the health service body which made the arrangements referred to in those provisions;".

Amendment of regulation 7 of the principal Regulations

7.—(1) Regulation 7(1) of the principal Regulations (claims for remission or payment) is amended in accordance with the following provisions of this regulations.

(2) In sub-paragraph (a)(ii) of the principal Regulations for "(m) or (n)" substitute "(m), (n), (o) (p) or (q)".

(3) For sub-paragraph (b) substitute the following sub-paragraph—

"(b) provide any declaration of entitlement required under regulation 3(3) or 4(3) or any declaration or evidence of entitlement required under regulation 5(3) or 6(3) of the National Health Service (Charges for Drugs and Appliances) (Wales) Regulations 2001"(**11**).

Insertion of regulation 7A into the principal Regulations

8. After regulation 7 of the principal Regulations (claims for remission or payment) insert the following regulation—

(**10**) 1989 c. 41. In force as from 1 October 2001 (S.I.2001/2878).
(**11**) S.I.2001/1358 (W.86).