WELSH STATUTORY INSTRUMENTS

2003 No. 955 (W.129)

NATIONAL HEALTH SERVIVCE, WALES

The National Health Service (Optical Charges and Payments) and (General Ophthalmic Services) (Amendment) (Wales) Regulations 2003

Made - - - - 31st March 2003
Coming into force in accordance with regulation 1(2) and (3).

The National Assembly for Wales, in exercise of the powers conferred upon it by sections 38, 39, 78, 126(4) and 127 of, and paragraphs 2 and 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 (Optical Charges and Payments) and (General Ophthalmic Services) (Amendment) (Wales) Regulations 2003.

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

(3) Regulations 2, 3, 4, 8 and 9 will come into force on 6th April 2003.

(4) In these Regulations unless the context otherwise requires —

(**1**) 1977 c. 49; *see* section 128(1) as amended by the National Health Service and Community Care Act 1990 (c. 19) ("the 1990 Act"), section 26(2)(g) and (i) for the definitions of "prescribed" and "regulations".
Section 38 was amended by the Health Services Act 1980 (c. 53) ("the 1980 Act"), 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) ("the 1995 Act"), Schedule 1, paragraph 27.
Section 39 was extended by the 1988 Act, section 17; and amended by the Health Services Act 1980 (c. 53), section 1 and Schedule 1, paragraph 52, by the 1984 Act, section 1(4) and Schedule 1, paragraph 1 and Schedule 8; by S.I.1985/39, article 7(12); and by the 1995 Act, Schedule 1, paragraph 28.
Section 126(4) was amended by the 1990 Act, section 65(2) and by the Health Act 1999 (c. 8) ("the 1999 Act"), Schedule 4, paragraph 37(6).
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 amended by the 1988 Act, section 13(2) and (3).
The functions of the Secretary of State under sections 38, 39, 78, 126(4) and 127 of, and paragraphs 2 and 2A of Schedule 12 to the 1977 Act are 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 section 66(5) of the 1999 Act.

"the 1997 Regulations" ("*Rheoliadau 1997*") means the National Health Service (Optical Charges and Payments) Regulations 1997(**2**);

"the 1986 Regulations" ("*Rheoliadau 1986*") means the National Health Service (General Ophthalmic Services) Regulations 1986(**3**).

(4) These Regulations apply to Wales only.

Amendment of regulation 1 of the 1997 Regulations

2.—(1) Regulation 1 of the 1997 Regulations (citation, commencement and 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 positions in alphabetical order insert the following definitions—

""child tax credit" means child tax credit under section 8 of the Tax Credits Act 2002(**4**);

"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;

"working tax credit" means working tax credit under section 10 of the Tax Credits Act 2002;".

Amendment of regulation 8 of the 1997 Regulations

3.—(1) Regulation 8 of the 1997 Regulations (eligibility — supply of optical appliances) is amended in accordance with the following provisions of this regulation.

(2) In paragraph (3)—

(a) after sub-paragraph (k) insert the following sub-paragraph—

"(l) he is a member of a family—

(i) that has a gross annual income of £14,200 or less, 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.".

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

(3) For paragraph (4) substitute the following paragraph—

"(4) In paragraph (3), "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 —

(**2**) 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), 2001/1423 (W.98) and 2002/186 (W.25).
(**3**) S.I.1986/975; the relevant amending instruments are S.I.1988/486, 1989/395 and 1175, 1990/1051, 1991/583, 1992/404, 1995/558, 1996/705 and 2320, 1999/693, 1999/2481 (W.21) and 2001/1362 (W.90).
(**4**) 2002 c. 21.
(**5**) 1992 c. 4.

(a) in sub-paragraph (j) it has the meaning assigned to it by section 35 of the Jobseekers Act 1995(**6**); and

(b) in sub-paragraph (l) it has the meaning assigned to it by regulation 2(2) of the Tax Credits (Definition and Calculation of Income) Regulations 2002(**7**).".

Insertion of regulation 12A into the 1997 Regulations

4. After regulation 12 of the 1997 Regulations (use of vouchers for the supply of optical appliances) insert the following regulation—

"**Notices of entitlement**

12A.—(1) If a person is entitled to the payment of, or contribution towards, the cost incurred for the supply of an optical appliance because he or she is a member of a family described in regulation 8(3)(l), the National Assembly for Wales will issue a notice of entitlement;

(2) A notice of entitlement issued in accordance with paragraph (1) will apply to —

(a) the person to whom it is issued and who is named on the notice of entitlement, and

(b) any other members of his or her family.

(3) A notice of entitlement issued in accordance with paragraph (1) will be effective—

(a) from such date; and

(b) for such period,

as the National Assembly for Wales 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 has been issued in accordance with paragraph (1), during the period for which the notice of entitlement has been issued, will not affect the validity of the notice of entitlement in respect of that period.".

Amendment of regulation 19 of the 1997 Regulations

5. In regulation 19 of the 1997 Regulations (redemption value of voucher for replacement or repair)—

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

(b) in paragraph (3), for "£11.50" substitute "£11.80".

Amendment of the Schedules to the 1997 Regulations

6.—(1) In Schedule 1 to the 1997 Regulations (voucher letter codes and face values — supply and replacement) in column (3) (face value of voucher), for each amount specified in column 1 of the table below substitute the amount specified in relation to it in column 2 of that table.

TABLE

(1) *Old amount*	(2) *New amount*
£ 30.50	£ 31.30

(**6**) 1995 c. 18.
(**7**) S.I.2002/2006.