
SCOTTISH STATUTORY INSTRUMENTS

2003 No. 460

NATIONAL HEALTH SERVICE

The National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003

Made - - - - 26th September 2003
Laid before the Scottish Parliament - - - - 29th September 2003
Coming into force - - 6th October 2003

The Scottish Ministers, in exercise of the powers conferred by sections 75A, 105(7) and 108(1) of the National Health Service (Scotland) Act 1978(1), and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 and shall come into force on 6th October 2003.

Interpretation

2. In these Regulations, unless the context otherwise requires—

“the Act” means the National Health Service (Scotland) Act 1978;

“capital limit” in the case of—

- (a) a person who lives permanently in accommodation provided by a care home service provider under section 2(3) of the Regulation of Care (Scotland) Act 2001(2), or in accommodation provided by a local authority under sections 21 to 24 and 26 of the

(1) 1978 c. 29; section 75A was inserted by the Social Security Act 1988 (c. 7), section 14(2), and amended by the Health and Medicines Act 1988 (c. 49), Schedule 2, paragraph 13, the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, Part I, paragraphs 32 and 51, and the National Health Service and Community Care Act 1990 (c. 19), Schedule 9, paragraph 19(13), and by S.I.1998/2385; 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, and by the Health Act 1999 (c. 8), Schedule 4, paragraph 60; section 108(1) contains definitions of “prescribed” and “regulations” relevant to the exercise of the statutory powers under which these Regulations are made. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c. 46).

(2) 2001 asp 8.

National Assistance Act 1948(3), means the sum specified in regulation 20 of the National Assistance (Assessment of Resources) Regulations 1992(4); and

- (b) any other person, means the amount prescribed for the purposes of section 134(1) of the Social Security Contribution and Benefits Act 1992(5);

“child tax credit” means child tax credit under section 1(1)(a) of the Tax Credits Act 2002(6);

“claimant” means a person who makes a claim for remission, payment or repayment in accordance with regulation 9 or 11;

“date of claim” means the date on which a claim made under regulation 9(1) or regulation 11(2) is received in an appropriate office or by the Secretary of State;

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

“family” has the meaning assigned to it by section 137(1) of the Social Security Contributions and Benefits Act 1992(7) as it applies to income support, except that:

- (a) in regulation 4(2)(j) and (l) it has the meaning assigned to it by section 35 of the Jobseekers Act 1995(8);
- (b) in regulation 4(2)(n) it has the meaning assigned to it by regulation 2(2) of the Tax Credits (Definition and Calculation of Income) Regulations 2002(9); and
- (c) where a claim has been made for support under Part VI of the Immigration and Asylum Act 1999(10), it means the asylum-seeker who has made that claim and any dependant, as defined in section 94 of that Act, whom the asylum-seeker has included in that claim and references to “family” in regulations 4(2)(i) and 10(1) and (2) shall be construed accordingly;

“full rate” means the rate determined under section 26(2) of the National Assistance Act 1948(11);

“income-based jobseeker’s allowance” has the meaning assigned to it by section 1(4) of the Jobseekers Act 1995(12);

“income support” means income support under section 124 of the Social Security Contributions and Benefits Act 1992 and includes personal expenses addition, special transitional addition and transitional addition as defined in regulation 2(1) of the Income Support (Transitional) Regulations 1987(13);

“partner” means, where a claimant–

- (a) is a member of a married or an unmarried couple, the other member of that couple; or
- (b) is married polygamously to two or more members of the claimant’s household, any such member;

“pension credit guarantee credit” means state pension credit guarantee credit under sections 1 and 2 of the State Pension Credit Act 2002(14);

(3) 1948 c. 29.

(4) S.I. 1992/2977; relevantly amended by S.S.I. 2001/138, regulation 3.

(5) 1992 c. 4.

(6) 2002 c. 21.

(7) 1992 c. 4.

(8) 1995 c. 18.

(9) S.I. 2002/2006.

(10) 1999 c. 33; section 94 was amended by the Nationality, Immigration and Asylum Act 2002 (c. 41), Schedule 9.

(11) 1948 c. 29; section 26(2) was amended by section 42(3) of, and paragraph 5(5) of Schedule 9 and Schedule 10 to, the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”).

(12) Section 1(4) was amended by the Welfare Reform and Pensions Act 1999 (c. 30), Schedule 7, paragraph 2(4), and Schedule 13, Part V.

(13) S.I. 1987/1969

(14) 2002 c. 16.

“relevant charges” and “relevant travelling expenses” have the meanings prescribed by regulation 3(1);

“the relevant income” has the same meaning as in section 7(3) of Part 1 of the Tax Credits Act 2002(15);

“standard rate” means the standard rate fixed in accordance with section 22(2) of the National Assistance Act 1948(16);

“trade dispute” has the same meaning as in section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992(17);

“week” means a period of 7 days beginning at midnight between Saturday and Sunday; and

“working tax credit” means working tax credit under section (1)(b) of the Tax Credits Act 2002.

Entitlement to full remission and payment

3.—(1) Any person of a description prescribed by regulation 4 is entitled, in accordance with the following provisions of these Regulations, to the remission of the whole amount of any charges specified in paragraph (2) which would otherwise be payable by that person (“relevant charges”), and to payment, in accordance with regulation 6 and 7, of the whole amount of the travelling expenses including, where applicable, the whole amount of the overnight accommodation expenses, referred to in paragraphs (3), (4) and (5) (“relevant travelling expenses”).

(2) The specified charges for the purpose of paragraph (1) are—

(a) charges for drugs, medicines, appliances and pharmaceutical services payable in pursuance of section 69(1) of the Act(18); and

(b) charges for dental appliances and dental treatment payable in pursuance of section 70(1A)(19) or section 71(1)(20) of the Act(21) or of section 20(1) of the National Health Service (Primary Care) Act 1997(22).

(3) Paragraph (1) applies in the case of travelling expenses necessarily incurred or to be incurred by a person in attending a hospital for the purpose of availing that person of services provided under the care of a hospital consultant in pursuance of the Act, and includes the travelling expenses of a companion in a case where—

(a) that person is a child; or

(b) it is necessary on medical grounds for that person to be accompanied.

(4) Paragraph (1) applies in the case of overnight accommodation expenses necessarily incurred in obtaining such accommodation for the purpose of paragraph (3) by a person or a companion whose travelling expenses are payable by virtue of that paragraph.

(5) The travelling expenses, including as applicable overnight accommodation expenses, to be taken into account for the purposes of paragraphs (3) and (4) are to be the costs of travelling by the cheapest means of transport and of overnight accommodation in the cheapest facilities reasonably available.

(6) For the purposes of sub-paragraph (3) “child” means a person who has not attained the age of 16.

(15) See the Tax Credits (Definition and Calculation of Income) Regulations 2002 (S.I. 2002/2006) for the manner of calculation of income under section 7(3).

(16) Section 22(2) was amended by section 44(3) of the 1990 Act.

(17) 1992 c. 52.

(18) For the applicable charges see S.S.I. 2001/430; amended by S.S.I. 2002/100 and 2003/130 and 295.

(19) Section 70(1A) was inserted by the Health and Medicines Act 1988 (c. 49) (“the 1988 Act”), section 11(4).

(20) Section 71(1) was amended by the 1988 Act, Schedule 3.

(21) For the applicable charges see S.I. 1988/464

(22) 1997 c. 46.

Description of persons entitled to full remission and payment

- 4.—(1) Regulation 3(1) applies—
- (a) in the case of the charges 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; and
 - (b) in any other case to any person described 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 are—
- (a) a person who is in receipt of income support;
 - (b) a member of the same family as a person who is in receipt of income support;
 - (c) a person whose requirements equal or exceed that person's income resources and whose capital resources do not exceed the capital limit;
 - (d) a member of the same family as a person described in paragraph (2)(c) of this regulation;
 - (e) a person who is in receipt of an income-based jobseeker's allowance;
 - (f) a member of the same family as a person who is in receipt of an income-based jobseeker's allowance;
 - (g) a person who lives permanently in accommodation provided by a local authority under the Social Work (Scotland) Act 1968⁽²³⁾ and who has satisfied the authority that the person is unable to pay for that accommodation at the standard rate or, as the case may be, the full rate, and for the purposes of this paragraph a person lives permanently in that accommodation if it is the person's principal place of abode;
 - (h) an asylum-seeker for whom support is provided under Part VI of the Immigration and Asylum Act 1999;
 - (i) a member of the same family as a person described in paragraph (2)(h) of this regulation;
 - (j) a person who is a member of a family—
 - (i) one member of which, on the date entitlement is determined, is receiving—
 - (aa) working tax credit and child tax credit;
 - (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 member or members to whom the 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;
 - (k) a person who is in receipt of pension credit guarantee credit; or
 - (l) a member of the same family as a person who is in receipt of pension credit guarantee credit.

Persons entitled to remission in part or payment in part

5.—(1) A person who is not of a description prescribed by regulation 4 and whose capital resources do not exceed the capital limit is entitled, in accordance with the following provisions of these Regulations, to the remission of part of any relevant charges or, as the case may be, payment,

(23) 1968 c. 49.

in accordance with regulation 6, of part of any relevant travelling expenses if at the time when the relevant charges are made or when the relevant travelling expenses are incurred the person is—

- (a) a person whose income resources exceed the person's requirements by less than a third of the relevant charges or, as the case may be, by less than the relevant travelling expenses; or
- (b) a member of the same family as a person described in sub-paragraph (a) of this paragraph.

(2) This regulation applies only in respect of charges for wigs, fabric supports and surgical brassieres payable in pursuance of section 69(1) of the Act (supplied otherwise than under Part II of the Act), charges for dental appliances and dental treatment payable in pursuance of section 70(1A) or section 71(1) of the Act or of section 20(1) of the National Health Service (Primary Care) Act 1997, and any relevant travelling expenses.

(3) The amount of any relevant charges which a person is entitled by paragraph (1) to have remitted is the difference between the relevant charges and 3 times the amount by which the person's income resources exceed the person's requirements.

(4) The amount of the relevant charges for the purposes of paragraph (3) are in the case of—

- (a) a charge under section 69(1) of the Act for the supply of an appliance, the charge made for that appliance;
- (b) a charge—
 - (i) for dental treatment or for the supply of a dental appliance under Part II of the Act; or
 - (ii) for dental treatment under Part I of the National Health Service (Primary Care) Act 1997,

the charge made for one course of treatment, including any charge made for a dental appliance supplied in that course of treatment; or

- (c) in the case of a charge for the supply of a dental appliance supplied otherwise than under Part II of the Act or under Part I of the National Health Service (Primary Care) Act 1997, the charge made for that appliance.

(5) Subject to regulation 7, the amount of the relevant travelling expenses which a person is entitled by paragraph (1) to be paid is the difference between the relevant travelling expenses incurred in any week and the amount by which the person's income resources exceed the person's requirements.

Payment of relevant travelling expenses

6. Where a payment falls to be made under regulations 3(1) or 5(1) in respect of relevant travelling expenses, that payment shall be made—

- (a) in a case where the relevant travelling expenses are incurred or to be incurred by a person in attending a hospital which is vested in an NHS trust, by that NHS trust; or
- (b) in any other case, by the Health Board.

Payment to persons resident in the Highlands and Islands

7.—(1) A person of the description prescribed in paragraph (3) who is not a person of a description prescribed by regulation 4 is entitled to payment of relevant travelling expenses incurred or to be incurred in making a journey between the person's normal place of residence in the Highlands and Islands and a hospital in the United Kingdom for the purpose of availing the person of services provided under the care of a hospital consultant in pursuance of the Act, provided that—

- (a) the distance travelled from the person's home (or place of residence while working) to the hospital must be 30 miles or more, or involve a journey by sea of more than 5 miles; and

- (b) the relevant travelling expenses are more than £8, and the person makes a contribution of £8 towards the relevant travelling expenses.
- (2) The relevant travelling expenses referred to in paragraph (1) include—
 - (a) those of the return journey; and
 - (b) those of a companion in a case where it is necessary on medical grounds that the person referred to in paragraph (1) should be accompanied.
- (3) Paragraph (1) applies to a person who, at the time when the relevant travelling expenses referred to in paragraph (1) are incurred, is normally resident or working on a long-term basis in the area comprising—
 - (a) the local government areas of Highland, Western Isles, Orkney Islands and Shetland Islands;
 - (b) that part of the local government area of Argyll and Bute which is the area of the former Argyll and Bute District Council and the islands of Arran, Great Cumbrae and Little Cumbrae; and
 - (c) in the local government area of Moray, the areas of the former parishes of Aberlour, Cabrach, Dallas, Dyke, Edinkillie, Forres, Inveravon, Kinloss, Kirkmichael, Knockando, Mortlach, Rafford and Rothes.
- (4) Where a payment falls to be made under paragraph (1) in respect of relevant travelling expenses, that payment shall be made—
 - (a) in a case where the relevant travelling expenses are incurred or to be incurred by a person in attending a hospital which is vested in an NHS trust, by that NHS trust; or
 - (b) in any other case, by the Health Board.

Calculation of resources and requirements

8.—(1) Where it is necessary that the resources or requirements of a person, or the relationship between them, should be calculated for the purposes of these Regulations, they shall be calculated by the Scottish Ministers according to the provisions of this regulation and the Schedule.

(2) For the purposes of paragraph (1), the resources and requirements of a person shall be calculated in the case of a claim made under—

- (a) regulation 9(1), by reference to the person's resources or requirements at the date of claim; or
- (b) regulation 11(2), by reference to the person's resources or requirements at the date when the relevant charges or relevant travelling expenses are paid in full,

and in each case in accordance with the provisions of these Regulations in force at that date.

(3) Unless any provision referred to in the Schedule specifies to the contrary, where a claimant is a member of a family—

- (a) the resources of the other members of the claimant's family shall be calculated or estimated in the same manner as those of the claimant and shall be taken into account as if they were the claimant's resources; and
- (b) in calculating the claimant's requirements, the requirements of the other members of the claimant's family shall be taken into account according to the provisions of the Schedule.

(4) In a case to which paragraph (3) applies, unless the context otherwise requires, any reference to a "claimant" in the Schedule or in the provisions referred to in the Schedule shall be construed as including the other members of the claimant's family.

(5) In a case where the earnings of any person are to be calculated for the purpose of this regulation and those earnings have been affected by a trade dispute, the earnings to be taken into account shall be the earnings which that person would have received if there had been no trade dispute.

Claims for remission or payment

9.—(1) Subject to paragraph (2), a person who falls within sub-paragraph (a) or (b) below and who wishes to claim their entitlement under regulations 3(1) or 5(1) shall, if the person comes within a description prescribed by regulations 4(2)(c), (d), (g), (h) or (i), or 5(1), make a claim to the Scottish Ministers on a form provided by or on behalf of the Scottish Ministers for that purpose, and shall send or deliver that form to the Scottish Ministers, or to an office receiving and processing such claims on their behalf.

(2) Subject to paragraph (3), where a person is unable for the time being to act, a claim may be made on that person's behalf by another person.

(3) The Scottish Ministers may refuse to accept a claim made by one person on behalf of another where, in the Scottish Minister's opinion—

- (a) the person on whose behalf the claim is made is able to act; or
- (b) the person making the claim is not a suitable person to act on behalf of that other person.

(4) A claimant shall produce in support of a claim such evidence as the Scottish Ministers may reasonably require.

(5) The Scottish Ministers may treat any claim under paragraph (1) as a claim to entitlement in respect of all the relevant charges and relevant travelling expenses and shall calculate the resources and requirements of the claimant according to the provisions of regulation 8 and the Schedule.

Notices of entitlement

10.—(1) Where the Scottish Ministers determine, on a claim made under either regulation 3 or regulation 5 that the claimant and any member of the claimant's family are entitled to any remission of a relevant charge or any payment in respect of relevant travelling expenses, they shall issue a notice of entitlement to the claimant.

(2) Where a person is entitled to full remission of a relevant charge and payment in full of relevant travelling expenses because the person is a member of a family described in regulation 4(2)(j)(i), the Scottish Ministers must issue a notice of entitlement to that family and in such a case the notice shall apply to all the members of that family.

(3) A notice of entitlement issued under paragraph (1) applies to all members of the claimant's family and must state—

- (a) whether those persons are entitled to full or partial remission or payment; and
- (b) in the case of partial remission or payment, the amount of any relevant charge or relevant travelling expenses for which there is no entitlement to remission or payment.

(4) A notice of entitlement issued under paragraph (1) or paragraph (2) must state the length of time for which it is valid and the dates on which that time begins and ends.

(5) A notice of entitlement issued under paragraph (1) is valid for 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 from the date of the claim until the last day of that course; and
- (b) in the case of a notice issued to a person mentioned in regulation 4(2)(h) or (i) (asylum seeker or a member of the family of the asylum seeker), it is valid for 6 months beginning on the date of the claim.

(6) A notice of entitlement issued under paragraph (2) is valid from such date and for such period as the Scottish Ministers may determine.

(7) Subject to paragraphs (9) and (10), any change in the financial or other circumstances of a claimant, or of any member of the claimant's family, during the period of a notice of entitlement shall not affect its validity in respect of that period or, in the case of partial remission or payment, the amount referred to in paragraph (3)(b).

(8) A claimant who is issued with a notice of entitlement to partial remission may make a further claim in accordance with regulation 5 at any time during the period of the notice if the claimant considers that by reason of a change in the claimant's financial circumstances or those of any member of the claimant's family the amount referred to in paragraph (3)(b) should be reduced.

(9) A claimant to whom a notice of entitlement has been issued under this regulation must return it to the Scottish Ministers in any case where the claimant's claim is found to have been based on a false representation.

(10) A notice of entitlement issued under this regulation is effective only for the purpose of entitlement to remission of relevant charges and payment of relevant travelling expenses in accordance with these Regulations.

Repayment

11.—(1) Subject to the following provisions of these Regulations, a person of a description prescribed by regulations 4 or 5(1) who pays any relevant charges or relevant travelling expenses without exercising the person's right under regulations 3(1) or 5(1) to remission or payment is entitled to be repaid whatever amount would otherwise have been remitted or paid.

(2) Subject to paragraph (3), it is a condition of the entitlement to repayment under paragraph (1) of a person of any description that the person makes a claim to the Scottish Ministers for repayment within three months after payment of the relevant charges or relevant travelling expenses (or within such further period as the Scottish Ministers may for good cause allow) and that the person makes that claim on a form provided by or on behalf of the Scottish Ministers for that purpose for persons of that description.

(3) Subject to paragraph (4), where a person is unable for the time being to act, a claim may be made on behalf of that person by another person.

(4) The Scottish Ministers may refuse to accept a claim made by one person on behalf of another where, in the Scottish Ministers' opinion—

- (a) the person on whose behalf the claim is made is able to act; or
- (b) the person making the claim is not a suitable person to act on behalf of that other person.

(5) It is a further condition of entitlement to repayment under paragraph (1) that the claimant produces in support of the claim such evidence as the Scottish Ministers may reasonably require.

(6) Where the Scottish Ministers are satisfied that a claimant is entitled to any repayment under paragraph (1) they shall—

- (a) in the case of a repayment to be made in respect of—
 - (i) relevant charges made by an NHS trust or a Health Board, other than a charge for drugs or for appliances mentioned in sub-paragraphs (a) or (b) of regulation 5(1) of the National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations 2001⁽²⁴⁾; and
 - (ii) relevant travelling expenses incurred by a person in attending a hospital managed by an NHS trust or a Health Board,

(24) S.S.I. 2001/430.

authorise in writing the repayment of the amount in question to the claimant by the NHS trust or the Health Board; or

- (b) in any other case, cause a repayment to be made to the claimant in such manner as appears to the Scottish Ministers to be appropriate in the circumstances of the particular case.

(7) On receipt of an authorisation given under paragraph (6)(a) the NHS trust or the Health Board shall pay the amount in question to the claimant.

Reimbursement of payments made in respect of relevant travelling expenses

12.—(1) Where a Health Board or an NHS trust (“the provider”) makes a payment under regulations 3(1) or 5(1), or a repayment under regulation 11(7), in respect of relevant travelling expenses incurred or to be incurred by a person who is receiving services from the provider under the terms of an NHS contract the amount of the payment or repayment in question shall be reimbursed to the provider by the Health Board which has responsibility for the health care of that person.

(2) In this regulation the expression “Health Board which has responsibility for the health care of that person” has the meaning indicated by article 2 of the Functions of Health Boards (Scotland) Order 1991⁽²⁵⁾.

Transitional provisions

13. Where, before the date of coming into force of these Regulations—

- (a) a person was entitled to, but had not made a claim for the remission, in whole or in part, of any relevant charges or the payment, in whole or in part, of any relevant travelling expenses under either the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 1988⁽²⁶⁾ (“the 1988 Regulations”) or the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 2003⁽²⁷⁾ (“the 2003 Regulations”), that person may still make a claim under the 1988 Regulations or 2003 Regulations, as appropriate, as though for that purpose, the 1988 Regulations or 2003 Regulations, as the case may be, were in force and they and any other relevant instruments were not revoked by this or any earlier instrument;
- (b) a person had made a claim for the remission, in whole or in part, of any relevant charges or the payment, in whole or in part, of any relevant travelling expenses under the 1988 or the 2003 Regulations and the claim has not been determined, the claim shall be determined in accordance with the provisions of these Regulations; and
- (c) a person has been issued with any document which gives an entitlement to a remission or payment under the 1988 or the 2003 Regulations in respect of a period or course of treatment which period or course of treatment continues after that date, the document shall continue to be effective in respect of such a remission or payment for the said period or course of treatment in accordance with the provisions of the 1988 or the 2003 Regulations as though they and the other instruments revoked by the 2003 Regulations and by these Regulations, remained in force.

Revocation

14. The National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 2003 are revoked.

⁽²⁵⁾ S.I. 1991/570

⁽²⁶⁾ S.I. 1988/546.

⁽²⁷⁾ S.S.I. 2003/376.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

St Andrew's House, Edinburgh
26th September 2003

MALCOLM CHISHOLM
A member of the Scottish Executive

SCHEDULE

Regulation 8

PART I

CALCULATION OF RESOURCES

1. A claimant's resources shall be calculated in terms of income and capital and shall be calculated as follows:—

- (a) income shall be calculated on a weekly basis according to the method of calculating or estimating income as prescribed by the provisions of Part V of, and Schedules 8 and 9 to, the Income Support (General) Regulations 1987⁽²⁸⁾ subject to the modifications referred to in paragraph 2; and
- (b) capital shall be calculated according to the method of calculating or estimating capital as prescribed by the provisions of Chapter VI in Part V of, and Schedule 10 to, the Income Support (General) Regulations 1987 subject to the modifications referred to in paragraph 2.

2. The provisions of the Income Support (General) Regulations 1987 shall be applied as follows:—

- (a) as respects the provisions specified in column 1 of Table A in this Schedule, in accordance with the modifications specified in the corresponding entries in column 2;
- (b) as if—
 - (i) references to income support were to the remission of any relevant charges and the payment of any relevant travelling expenses,
 - (ii) references to an adjudication officer were to the Scottish Ministers;
 - (iii) references in any of those provisions to any other of those provisions were to that other provision as modified in accordance with this paragraph; and
 - (iv) the State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) Regulations 2002⁽²⁹⁾ had not been made; and
- (c) as if there were inserted in regulation 2 (interpretation) of those Regulations after the definition of “relative”—

““relevant date” means—

 - (a) in the case of a claim made under regulation 9(1) of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003, the date of claim; and
 - (b) in the case of a claim made under regulation 11(2) of those Regulations, the date when the claimant paid the relevant charges or relevant travelling expenses”.

⁽²⁸⁾ S.I. 1987/1967.

⁽²⁹⁾ S.I. 2002/3019.

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TABLE A

MODIFICATIONS OF THE INCOME SUPPORT (GENERAL) REGULATIONS 1987 FOR THE PURPOSES OF PART I OF THIS SCHEDULE

<i>Column 1</i> <i>Regulation or Schedule</i>	<i>Column 2</i> <i>Modification</i>
Regulation 23	In paragraph (1)(30) for “section 22(5) of the Act” substitute “regulation 8(3) of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003”.
Regulation 25	For the whole of regulation 25 (liable relative payments) substitute— <p style="margin-left: 40px;">“25.—(1) Where a claimant’s income consists of any payments made by a person, whether under a court order or not, for the maintenance of himself or any member of his family, and those payments are made or due to be made at regular intervals, his normal weekly income from those payments shall be determined—</p> <p style="margin-left: 80px;">(a) if before the relevant date those payments are made at regular intervals and in regular amounts, by reference to the normal weekly amount; or</p> <p style="margin-left: 80px;">(b) if they are not so made, by reference to the average amount of such payments received in the 13 weeks immediately preceding the week which includes the relevant date.</p> <p style="margin-left: 40px;">(2) Any maintenance payment other than one to which paragraph (1) of this regulation applies shall be treated as capital.”.</p>
Regulation 25A	Omit this regulation.
Regulation 28	In paragraph (1)(31) omit the words from “For the purposes” to “income support”.

(30) Amended by S.I. 2003/455, regulation 2 and Schedule 1.

(31) Amended by S.I. 1991/159, regulation 7.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

<i>Column 1</i> <i>Regulation or Schedule</i>	<i>Column 2</i> <i>Modification</i>
Regulation 29	In paragraph (1)(a) for “the weekly amount of his income” substitute “the normal weekly amount of his income at the relevant date”.
Regulation 30	Omit this regulation.
	In paragraph (1)(32) omit the words “Except where paragraph (2) applies”.
	In paragraph (1)(a) at the beginning insert the words “except where sub-paragraphs (b) or (c) apply,”.
	In paragraph (1)(b) at the beginning insert the words “except where sub-paragraph (c) applies,”.
	After paragraph (1)(b) insert–
	“or
	(c) where in respect of the employment the claimant provides a profit and loss account (and, where appropriate, a trading account or a balance sheet or both), and the profit and loss account is in respect of a period of at least 6 months but not exceeding 15 months and that period ends within the 12 months preceding the relevant date.”.
	After paragraph (1) insert–
	“(1A) In paragraph (1)(c)–
	(a) “balance sheet” means a statement of the financial position of the employment disclosing its assets, liabilities and capital at the end of the period in question;
	(b) “profit and loss account” means a financial statement showing the net profit or loss of the employment for the period in question; and

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<i>Column 1</i> <i>Regulation or Schedule</i>	<i>Column 2</i> <i>Modification</i>
	(c) “trading account” means a financial statement showing the revenue from sales, the cost of those sales and the gross profit arising during the period in question.”.
Regulation 31	Omit paragraph (2).
Regulation 32	Omit this regulation. In paragraph (1)(33) 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”.
Regulation 35	Omit paragraphs (3)-(5), (6A) and (7). Omit paragraphs (1)(c), (1)(g), (1)(i), (1A) and (2A). In paragraph (1)(d)(34) omit the words after “employment”.
Regulation 36	In paragraph (2)(a)(35) omit the words “subject to paragraph (2A)”.
Regulation 38	In paragraph (1) for “regulation 29 (calculation of earnings of employed earners)” substitute “regulation 28 (calculation of income)”.
	In paragraph (3)(36) for “paragraph (9)” substitute “paragraphs (3A) or (9)”.
	After paragraph (3) insert– “(3A) For the purpose of paragraph (1) (a), in a case where earnings of the employment are calculated over a period determined under regulation 30(1)(c), the net profit of the employment shall, except where paragraph (9) applies, be calculated by taking into account the earnings of the employment relevant to that period

(33) Amended by S.I. 1988/663, regulation 15 and 1989/1323, regulation 10.

(34) Amended by S.I. 1988/663, regulation 17.

(35) Amended by S.I. 1999/1509, regulation 2(5).

(36) Amended by S.I. 1993/2119, regulation 13 and 1994/2139, regulation 28.

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<i>Column 1</i> <i>Regulation or Schedule</i>	<i>Column 2</i> <i>Modification</i>
	(whether or not received in that period), less– <ul style="list-style-type: none">(a) subject to paragraphs (5) to (7), any expenses relevant to that period (whether or not defrayed in that period) and which were wholly and exclusively incurred for the purposes of that employment; and(b) an amount in respect of–<ul style="list-style-type: none">(i) income tax;(ii) social security contributions payable under the Social Security Contributions and Benefits Act 1992⁽³⁷⁾, calculated in accordance with regulation 39 (deduction of tax and contributions for self-employed earners); and(iii) one half of any premium paid in the period that is relevant under regulation 30 (calculation of earnings of self-employed earners) in respect of a retirement annuity contract or a personal pension scheme.”.
Regulations 39A-D	In paragraph (4) after “the net profit of the employment” insert “, except where paragraphs (3A) or (9) apply.”.
Regulation 40	Omit these regulations. In paragraph (1) ⁽³⁸⁾ 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).

⁽³⁷⁾ 1992 c. 4.

⁽³⁸⁾ Amended by S.I. 1988/2002, regulation 9, 1998/563, regulation 13(1)(a) and 2003/455, Regulation 2 and Schedule 1, paragraph 8.

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<i>Column 1</i> <i>Regulation or Schedule</i>	<i>Column 2</i> <i>Modification</i>
Regulation 41	In paragraph (1)(39) for “on the first day” to “the date of that supersession” substitute “at the relevant date”.
	Omit paragraphs (3) and (4).
Regulation 42	In paragraph (4)(40) omit the words from “and in the case of” to “(trade disputes) applies”.
Regulation 45	For this regulation substitute– “Capital Limit 45. For the purposes of Regulation 5(1)(a) of the National Health Service (Travelling Expenses and Remission of Charges)(Scotland) (No. 2) Regulations 2003 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; or (c) for a claimant 60 or over, or 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.”.
Regulation 46	In paragraph (1)(41) omit from “For the purposes” to “income support”.
Regulation 48	In paragraph (2)(42) omit from “Except” to “applies”. In paragraph (5) omit “Subject to paragraph (6)”.

(39) Amended by S.I. 1999/3178, article 3(5) and Schedule 5, paragraph 3 and 2000/2545, regulation 2(1)(a).

(40) Amended by S.I. 1988/1445, regulation 10 and Schedule 1, paragraph 4, 1989/534, Schedule 1, paragraph 7, 1991/1559, regulation 8, 1993/315, Schedule, paragraph 2, 1994/527, regulation 4, 1995/2792, regulation 6(2), 1995/3282, regulation 2, 1998/2117, regulation 2(2), 1999/2640, regulation 2(1), 2002/841, regulation 2(2) and 2003/455, regulation 10.

(41) Amended by S.I. 1988/2022, regulation 10.

(42) Amended by S.I. 1988/1445, regulation 11.

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<i>Column 1</i> <i>Regulation or Schedule</i>	<i>Column 2</i> <i>Modification</i>
	Omit paragraphs (6) and (10)(a) and (b).
Regulation 49	In paragraph (b)(i)(43) for “first day” to “date of that supersession” substitute “relevant date”.
Regulation 51	Omit paragraph (1)(b).
Regulation 51A	Omit this regulation.
Regulation 53	In paragraph (1A)(44) for “£10,000” on each occasion it appears substitute “£12,000” and for “£16,000” substitute “£19,500”. For paragraph (1B) substitute— “(1B) For the purposes of paragraph (1A) and regulation 45 the prescribed circumstances are that the claimant lives permanently in accommodation as set out in Regulation 19A.”.
Regulations 54—60E	In paragraph (3)(45) for “regulation 60” substitute “regulation 25.” Omit these regulations.
Regulation 61	In paragraph (1)(46) as if, in the case of a student supported by the Student Awards Agency for Scotland, in the definition of “academic year”, for “1st September”, there were substituted “1st August”.
Regulation 62	In paragraph (3)(47) from the beginning to the words “shall be apportioned” substitute “Subject to paragraph (3A), a student’s grant income shall be apportioned”. In paragraph (3)(a) for “in the period beginning with the benefit week”, to “the last day of which coincides with, or immediately precedes, the last day of the period of study,” substitute “in that period”.

(43) Amended by S.I. 1999/3178, article 3(5) and Schedule 5, paragraph 6.

(44) Inserted by S.I. 1996/462, regulation 12(1).

(45) Amended by S.I. 1988/2022, regulation 13, 1996/462, regulation 12(1) and 2000/2545, regulation 2(1)(c).

(46) Amended by S.I. 2000/1981, regulation 5(3) and 2001/2319, regulation 2(1) and (2)(c).

(47) Amended by S.I. 2000/1922, regulation 2(4)(e) and 2003/455, paragraph 16.

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<i>Column 1</i> <i>Regulation or Schedule</i>	<i>Column 2</i> <i>Modification</i>
	<p>In paragraph (3)(b) for “in the period beginning with the benefit week”, to “the last day of the period for which it is payable,” substitute “in respect of which it is payable”.</p> <p>In paragraph (3A)(48) omit “under the provisions referred to in paragraph (3)” and “or, if there are 53 benefit weeks (including part-time weeks) in the year, 53”.</p> <p>Omit paragraph (3B).</p> <p>In paragraph (4), for “the weeks in the period beginning with the benefit week”, to “the last day of the period of experience” substitute “the remaining weeks in that period”.</p>
Regulation 63	In paragraph (2) omit “or, if there are 53 benefit weeks (including part-time weeks) in the year, 53”.
Regulation 64	In paragraph (1)(c) omit “or if there are 53 benefit weeks (including part-time weeks) in the year, 53”.
Regulation 65	<p>For “No part”(49) substitute “(1) Subject to paragraph (2), no part”.</p> <p>After paragraph (1) insert–</p> <p>“(2) For the purposes of this regulation and paragraph 15 of Schedule 9 “voluntary payment” shall not include any payment made by a person whose income the Scottish Ministers–</p> <ul style="list-style-type: none"> (a) would take into account in assessing the amount of a student’s grant or student’s loan if an application for it were to be made; or (b) has taken into account in assessing the amount of a student’s grant or student’s loan and which is in excess of

(48) Inserted by S.I. 2001/2319, regulation 6 and amended by 2003/455, paragraph 16.

(49) Amended by S.I. 1990/547, regulation 14 and 1996/462, regulation 8.

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<i>Column 1</i> <i>Regulation or Schedule</i>	<i>Column 2</i> <i>Modification</i>
Regulation 66A (50)	<p>contributions as assessed by the Scottish Ministers.”.</p> <p>For paragraph (2) substitute–</p> <p>“(2) In calculating the weekly amount of the loan to be taken into account as income–</p> <p>(a) except where sub-paragraph (b) applies, the loan shall be apportioned equally between the 52 weeks in the academic year; or</p> <p>(b) in the case of a loan which is payable in respect of the final academic year of the course or if the course is only of one academic year’s duration, in respect of that year the loan shall be apportioned equally between the weeks in the period beginning with the start of the final academic year, or as the case may be, the single academic year and ending with the last day of the course,</p> <p>and, in the case of a person to whom paragraph (2A), (2B) or (2C) applies, from the weekly amount so apportioned there shall be disregarded £10.”.</p> <p>After paragraph (2) insert–</p> <p>“(2A) This paragraph applies to a student whose applicable amount includes any premium specified in Parts II and III of Schedule 2.</p> <p>(2B) This paragraph applies where the claimant is a student to whom paragraph 12 of Schedule 1B applies.</p> <p>(2C) This paragraph applies where the student is a partner of a claimant and the claimant is not also a student.”.</p>
Schedule 8	<p>In paragraph 4(2)(51) after “disability premium” insert “or higher pensioner premium”.</p> <p>In paragraph 4 omit sub-paragraphs (3), (4), and (7).</p>

(50) Inserted by S.I. 1990/1549, regulation 5(7).

(51) Amended by S.I. 2001/3767, regulation 2(1) and Part I of Schedule, paragraph 18.

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<i>Column 1</i> <i>Regulation or Schedule</i>	<i>Column 2</i> <i>Modification</i>
Schedule 9	<p>In paragraph 6A(1)(52) for “none of the paragraphs 4 to 6 applies” substitute “paragraph 4 does not apply”.</p> <p>In paragraph 7(53) for the words “none of paragraphs 4 to 6B” substitute “none of paragraphs 4 or 5 or 6A or 6B”.</p> <p>In paragraph 8(54) omit “part-time”.</p> <p>After paragraph 8 insert–</p> <p style="padding-left: 40px;">“8A. In a case in which none of paragraphs 4 to 8 applies to the claimant and he is one of a married or unmarried couple and a member of that couple is engaged in employment, £10; but if this paragraph applies to a claimant it shall not apply to his partner except where, and to the extent that, the earnings of the claimant which are to be disregarded under this paragraph are less than £10.”.</p> <p>In paragraph 9 for “8” substitute “8A”.</p> <p>Omit paragraphs 6, 10, 13 and 16.</p> <p>In paragraph 15(55), in sub-paragraph (1) omit “paragraph 37”, and omit sub-paragraph (3)(b).</p> <p>In paragraph 16(56) for “paragraphs 36 and 37” substitute “paragraph 36”.</p> <p>In paragraph 19(57) for “£4.00” substitute “£20.00” and omit sub-paragraph (b).</p> <p>In paragraph 21(1)(58) omit “or in the case of a person to whom section 23 of the Act (trade dispute) applies”.</p>

(52) Amended by S.I. 1993/315, regulation 8 and 2000/2545, regulation 3 and Schedule, paragraph 2.

(53) Amended by S.I. 1993/315, regulation 8 and 2000/2545, regulation 3 and Schedule, paragraph 2.

(54) Amended by S.I. 2000/2545, regulation 3 and Schedule, paragraph 2.

(55) Amended by S.I. 1993/518, regulation 5, 1995/2303, regulation 6(9) and 2001/3767, regulation 2(1) and Part I of Schedule, paragraph 19.

(56) Amended by S.I. 1995/2792, regulation 6(3), 2000/2239, regulation 2(4) and 2002/841, regulation 2(4).

(57) Amended by S.I. 1994/527, regulation 9, 1995/516, regulation 27 and 2002/668, article 16(9).

(58) Amended by S.I. 1988/999, regulation 5, 1990/127, regulation 3, 1991/1175, regulation 5, 1992/1101, regulation 6, 1993/963, regulation 2(3), 1993/1249, regulation 4(4) and 2000/636, regulation 3(12).

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<i>Column 1</i> <i>Regulation or Schedule</i>	<i>Column 2</i> <i>Modification</i>
	In paragraph 28(59) omit from “Except” to “return to work”).
	For paragraph 29(1) substitute— “(1) Subject to sub-paragraph (2), any payment received under an insurance policy taken out to insure against the risk of being unable to maintain payments of housing costs on a loan which qualifies under paragraphs 15 or 16 of Schedule 3, or for repairs or improvements to the dwelling occupied as the home to the extent that it is used to meet— (a) repayments of unsecured loans for the purposes of carrying out repairs and improvements to the dwelling occupied as the home; or (b) any amount due by way of premiums on that policy.”
	Omit paragraphs 30, 34 and 37.
	After paragraph 76 insert— “77. Any payment of State Pension Credit Savings Credit as defined under sections 1 and 3 of the State Pension Credit Act 2002(60).”
Schedule 10	In paragraph 17(61) for the words from “Except” to “payment” substitute “Any payment”.

PART II

CALCULATION OF REQUIREMENTS

3.—(1) A claimant’s requirements shall be calculated as being the amount referred to in head (a) below less, where applicable, the amount referred to in head (b) below, as follows:—

- (a) the amount which represents the aggregate of—
 - (i) the weekly applicable amount which would apply to the claimant, including that in respect of any other member of the claimant’s family, in connection with a claim

(59) Amended by S.I. 1988/663, regulation 35, 1989/1034, regulation 12, 1992/468, Schedule, paragraph 9 and 2001/3070, article 3(2) and Schedule 1, paragraph (c).

(60) 2002 c. 16.

(61) Amended by 1988/663, regulation 36, 1989/1034, regulation 12, 1992/468, Schedule, paragraph 10 and 2001/3070, article 3(2) and Schedule 1, paragraph c.

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for income support as specified by the provisions of regulations 17, 18 and 21 of, and Schedules 2, 3, and 7 to, the Income Support (General) Regulations 1987(62), but subject to the modifications referred to in paragraph 2(b) and (c) and paragraph 4; and

(ii) subject to sub paragraph (2), the weekly amount of any council tax which the claimant or the claimant's partner is liable to pay under Part I or Part II of the Local Government Finance Act 1992(63);

(b) the amount which represents the aggregate of the weekly amount of any housing benefit and the weekly amount of any council tax benefit to which the claimant or any member of the claimant's family is entitled under the provisions of Part VII of the Social Security Contributions and Benefits Act 1992(64).

(2) Subject to sub paragraph (3), where a claimant is jointly and severally liable for council tax in respect of a dwelling in which the claimant is resident with one or more other persons, the claimant's liability in respect of that tax for the purposes of these Regulations shall be the amount of that tax divided by the number of persons who are jointly and severally liable for that tax.

(3) Sub paragraph (2) shall not apply where a claimant is jointly and severally liable for council tax in respect of a dwelling with only the claimant's partner.

4. The provisions of the Income Support (General) Regulations 1987 specified in column (1) of Table B in this Schedule shall be applied—

(a) in accordance with the modifications specified in the corresponding entries in column (2); and

(b) as if the Social Security (Income Support and Claims and Payments) Amendment Regulations 1995(65) and the Income Support (General) Amendment and Transitional Regulations 1995(66) had not been made.

TABLE B

MODIFICATIONS OF THE INCOME SUPPORT (GENERAL) REGULATIONS 1987 FOR THE PURPOSES OF PART II OF THIS SCHEDULE

<i>Column 1</i> <i>Regulation or Schedule</i>	<i>Column 2</i> <i>Modification</i>
Regulation 3	In paragraph (1)(67) omit the words "or with whom a claimant normally resides".
	In paragraph (2B)(68) omit the words "subject to paragraph (2C)".
	Omit paragraph (2C).

(62) S.I. 1987/1967.

(63) 1992 c. 14.

(64) 1992 c. 4; Part VII was amended by the Local Government Finance Act 1992, section 103 and Schedule 9 which replaced references to community charge benefit with reference to council tax benefit.

(65) S.I. 1995/1613.

(66) S.I. 1995/2287.

(67) Amended by S.I. 1991/2334, regulation 2 and 1994/3061, regulation 2(2).

(68) Inserted by S.I. 1991/2334, regulation 2.

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<i>Column 1</i> <i>Regulation or Schedule</i>	<i>Column 2</i> <i>Modification</i>
Regulation 17	<p>In paragraph (1)(69) for the words from “18 to 22A” to “urgent cases” substitute “18, 19A and 21”.</p> <p>Omit paragraphs (1)(bb) and (g).</p> <p>In paragraph (1)(e) omit “mortgage interest payments or” and “other”.</p>
Regulation 18	<p>In paragraph (1)(70) for the words from “regulations 21 to 22A” to “urgent cases” substitute “regulations 19A and 21 (special cases)”.</p> <p>Omit paragraph (1)(cc) and (h).</p> <p>After Regulation 18 insert–</p> <p style="text-align: center;">“Care Homes</p> <p style="text-align: center;">19A. Where the claimant lives permanently in–</p> <ul style="list-style-type: none">(a) accommodation provided by a care home service provider or by a local authority under the Social Work (Scotland) Act 1968(71); or(b) in accommodation provided by a local authority under sections 21 to 24 and 26 of the National Assistance Act 1948(72), <p>and he is a resident of such accommodation due to his personal circumstances and not as a carer, then his weekly applicable amount shall be calculated in accordance with Part 1 of Schedule 4A.”.</p>

(69) Amended by S.I. 1988/910, regulation 2, 1988/445, Schedule 1, paragraph 11, 1989/534, Schedule 1, paragraph 17, 1992/3147, regulation 2(1), 1996/206, regulation 9 and 2003/455, Schedule 1, paragraph 2.

(70) Amended by S.I. 1988/1228, regulation 5, 1988/1445, regulation 6 and Schedule 1, paragraph 12, 1989/1034, regulation 5, 1989/534, Schedule 1, paragraph 17, 1992/3147, regulation 2(1), 1993/2119, regulation 8, 1996/206, regulation 10 and 2001/3767, regulation 2 and Schedule, Part I, paragraph 4.

(71) 1968 c. 49.

(72) 1948 c. 29.

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<i>Column 1</i> <i>Regulation or Schedule</i>	<i>Column 2</i> <i>Modification</i>
Regulation 21	<p>In paragraph (1)(73) omit from “Subject to” to “amounts”.</p> <p>In paragraph (3)(74) omit “partner of a person subject to immigration control”.</p> <p>In paragraph (3) omit the definition of “person from abroad”.</p> <p>Omit paragraphs (1B), (2), (3A), (3B), (3C), (3D), (3E), (3F), (4), (4A), (4B) and (5).</p>
Regulations 21ZB and 22A	Omit these regulations
Schedule 2	<p>In column (1) of the Table(75) for sub-paragraphs (1) to (3) substitute–</p> <p>“(1) Single Person aged not less than 25; (2) Lone Parent; (3) Single Person aged less than 25; (4) Couple”.</p> <p>In column (2) of the Table (amounts) insert–</p> <p>(a) against sub-paragraph (1) of column (1), the amount prescribed in paragraph 1(e) of column (2) in the unmodified Regulations;</p> <p>(b) against sub-paragraph (2) of column (1), the amount prescribed in paragraph 1(e) of column (2) in the unmodified Regulations;</p> <p>(c) against sub-paragraph (3) of column (1), the amount prescribed in paragraph 1(b) of column (2) in the unmodified Regulations; and</p> <p>(d) against sub-paragraph (4) of column (1), the amount prescribed in paragraph 3(d) of column (2) in the unmodified Regulations.</p> <p>Omit paragraphs 1A, 2A, 9, 9A, 10(3), 10(4), 12(1)(c), 12(4), 15(2) and 15(2A).</p>

(73) Amended by S.I. 1991/1033, regulation 2, 1994/527, regulation 3, 1996/206, regulation 12, 1996/2431, regulation 2, 2000/636, regulation 3(4)(a), 2001/3767, regulation 2 and Schedule, Part 1, paragraph 6 and 2003/455, Schedule 1, paragraph 3.

(74) Amended by S.I. 1992/3147, Schedule 1, paragraph 3, 1994/1087, regulation 4(1), 1994/2139, regulation 25, 1995/516, regulation 21, 1996/1944, regulation 6(6), 1996/2006, regulation 4, 1998/563, regulation 8(1) and (2)(c)(i), 1998/563, regulation 18(3) and (4)(c), 2000/636, regulation 3(4)(a) and 2000/979, regulation 2.

(75) Amended by S.I. 1996/206, regulation 23 and Schedule 2 and 2002/668, article 16(4).

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<i>Column 1</i> <i>Regulation or Schedule</i>	<i>Column 2</i> <i>Modification</i>
	<p>In paragraph 2(1)(76) omit “for the relevant period specified in column (1)”.</p> <p>In paragraph 3(1)(a)(77) omit the words from “to whom” to “(3) apply” and omit paragraphs (2) to (7).</p> <p>For paragraph 10 substitute—</p> <p style="padding-left: 40px;">“10.—(1) Where the claimant is a single claimant or a lone parent, the condition is that he is aged not less than 60;</p> <p style="padding-left: 40px;">(2) Where the claimant has a partner, the condition is that he or his partner is aged not less than 60.”.</p> <p>For paragraph 11(b) substitute—</p> <p style="padding-left: 40px;">“(b) where the claimant has a partner and both are aged less than 60 and the additional condition specified in paragraph 12 is satisfied by at least one of them.”.</p> <p>In cross heading to paragraph 12, omit “Higher Pensioner”.</p> <p>In paragraph 12(1)(a)(i)(78) for the words “long term incapacity benefit” substitute “incapacity benefit, where the claimant or partner has been in receipt of that benefit for at least 28 weeks,” and omit the words from “but, in the case” to “in respect of him”.</p> <p>In paragraph 12(1)(b)(79) after “the claimant” insert “or, as the case may be, his partner” and for sub-head (ii) substitute—</p>

(76) Amended by S.I. 1996/2545, regulation 2, 1999/264, article 18(3) and Schedule 4, 1999/2555, regulation 2(1)(b) and (2) and 2002/668, article 16(3) and Schedule 2.

(77) Amended by 1988/1445, regulation 19, 1996/1803, regulation 39, 1997/2197, regulation 7(5) and (6)(a) and 2002/668, article 16(4).

(78) Amended by 1991/2742, regulation 11(4), 1994/2139, regulation 30, 1995/482, regulation 16, 1999/2566, regulation 2(2) and Schedule 2, Part II and 2003/455, Schedule 1, paragraph 20.

(79) Amended by S.I. 1995/482, regulation 17 and 1995/2303, regulation 6(8).

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<i>Column 1</i>	<i>Column 2</i>
<i>Regulation or Schedule</i>	<i>Modification</i>
Schedule 3	<p>“(ii) has been so entitled or so incapable for a continuous period of at least 28 weeks.”.</p> <p>In paragraph 12(6)(80) after “sub-paragraph (1)(a)(i)” delete “or (c) (i)” and for “long-term incapacity benefit” substitute “incapacity benefit, notwithstanding the requirement that the claimant or his partner has been in receipt of that benefit for at least 28 weeks,”.</p> <p>In paragraph 13(2)(a)(ii)(81) and 13(2)(b) (iii)(82) for “normally residing” substitute “residing with him” and delete “or with whom he is normally residing”.</p> <p>In paragraph 1(1)(b) for “paragraphs 15 to 17” substitute “paragraph 17”.</p> <p>For paragraph 1(2) substitute–</p> <p>“(2) In this Schedule “period of study” has the meaning specified in regulation 61 (Interpretation).”</p> <p>For paragraph 1(3) substitute–</p> <p>“(3) For the purposes of this Schedule a disabled person is a person–</p> <ul style="list-style-type: none"> (a) who satisfies a condition specified in paragraph 12(1) (a) or (b) of Schedule 2 and whose capital does not exceed the capital limit; or (b) who is aged 75 or over and whose capital does not exceed the capital limit; or (c) in respect of whom a disabled child premium is included in his applicable amount or the applicable amount of a person living with him.”. <p>For paragraph 2(1)(c) substitute–</p> <p>“(c) he in practice shares the housing costs with other</p>

(80) Amended by S.I. 1995/482, regulation 16.

(81) Amended by S.I. 1994/3061, regulation 2(3).

(82) Amended by S.I. 1994/3061, regulation 2(3) and 2000/681, regulation 4.

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<i>Column 1</i> <i>Regulation or Schedule</i>	<i>Column 2</i> <i>Modification</i>
	members of the household, where no member of that household who is liable to meet those costs is a close relative of the claimant or his partner and it is reasonable in the circumstances that the claimant should be treated as sharing responsibility for those costs.”.
	Omit paragraphs 1A, 2(2), 3(7)-(10) 6-16 and 18(7)(e).
	In paragraph 3(12) for “not exceeding” substitute “is not likely to exceed”.
	For paragraph 4 substitute– “4. No amount may be met under the provisions of this Schedule where the claimant is in accommodation which is a care home or accommodation provided by a local authority under sections 21 to 24 and 26 of the National Assistance Act(83) except where he is in such accommodation during a temporary absence from the dwelling he occupies as his home and, in so far as they relate to temporary absences, the provisions of paragraphs 3(11) and (12) apply to him for those absences.”.
	In paragraph 17– (a) in the cross heading for “Other” substitute “Qualifying”; (b) in sub-paragraph (1) omit head (f) and immediately before head (a) insert– “(za) any periodical payment which a person is liable to make by way of rent in respect of a dwelling he occupies as his home; (zb) payments of interest and capital–

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<i>Column 1</i> <i>Regulation or Schedule</i>	<i>Column 2</i> <i>Modification</i>
	<ul style="list-style-type: none"> (i) of a mortgage or loan secured on the dwelling occupied as the home; (ii) under a hire purchase agreement or other loan to buy the dwelling occupied as the home; or (iii) in respect of a loan taken out to adapt the dwelling occupied as the home for the special needs of a disabled person; (zc) payments in respect of an endowment policy in connection with the purchase of the dwelling occupied as the home;”. (c) In sub-paragraph (2) omit head (c) and for “Subject to” to “amounts” substitute “Subject to sub-paragraphs (3), (3A) and (3B), the deductions to be made from the weekly amounts in respect of the housing costs specified in heads (za) and (a) to (e) of sub-paragraph (1)” and in head (a) omit the words from “unless the claimant” to the end of the head; and (d) After sub-paragraph (3) insert– <ul style="list-style-type: none"> “(3A) Subject to sub-paragraph (3B), where arrangements are made for the housing costs mentioned in heads (za) and (a) to (e) of sub-paragraph (1) payable in respect of a period of study, to be paid irregularly or so that– <ul style="list-style-type: none"> (a) no such costs are payable for or collected in the Christmas or Easter vacation within a period of study; or (b) the costs in respect of the Christmas or Easter vacations within a period

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	<p>of study vary from those in the rest of that period of study,</p> <p>the weekly amount shall be the amount payable in respect of a period of study divided by the number of weeks in that period of study.</p> <p>(3B) Where the housing costs, to be calculated in accordance with sub-paragraph (3A), are subject to a deduction in accordance with sub-paragraph (2)(a) or (b), as the case may be, the weekly amount of the deduction shall be the proportion of the deduction calculated in accordance with sub-paragraph (2)(a) or (b), as the number of weeks in the period of study, excluding Christmas and Easter vacations, bears to the number of weeks in the period of study.”.</p>
Schedule 3B	<p>For paragraph 18(7)(f) substitute–</p> <p>“(f) to whom paragraph (2B) of regulation 3 (definition of non-dependant) would apply;”.</p>
	<p>After Schedule 3B insert–</p> <p>“Schedule 4A</p> <p>Applicable amounts of a person in accommodation within the meaning of Regulation 19A.</p> <p>1.—(1) The applicable amount of a claimant to whom regulation 19A applies shall be the aggregate of–</p> <p>(a) subject to paragraphs (2) and Schedule 2, the weekly charge for the accommodation, including all meals and services provided for him or, if he is a member of a family, for him and his family increased, where appropriate, in accordance with paragraph (2); and</p>

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Schedule 7	<p>(b) a weekly amount for personal expenses for him and, if he is a member of a family, for each member of his family determined in accordance with paragraph (2).</p> <p>(2) Except where otherwise provided, no amount shall be included in respect of a child or young person who is a member of the claimant’s family if the capital of that child or young person calculated in accordance with Part V in like manner as for the Claimant would exceed £3,000.</p> <p>2.—(1) The allowance for personal expenses for the claimant and his partner (where appropriate) shall be that set out in Schedule 9 to the Social Security (Claims and Payments) Regulations 1987(84) at paragraph 4(2)(c).</p> <p>(2) Where the claimant has a dependent child or children residing with him, the personal expenses allowed for each dependant shall be that set out in Schedule 9 to the Social Security (Claims and Payments) Regulations 1987 at paragraph 4(2)(c).”.</p> <p>Omit the references in paragraph 1(85) to sub-paragraph (g) of regulation 17 (1) and sub-paragraph (h) of regulation 18(1).</p> <p>Omit both columns of paragraphs 6, 7, 10A, 10B, 10C, 16A, 17 and 19A.</p> <p>In the first column of paragraph 9(a) for sub-paragraphs (i) and (ii) substitute—</p> <p style="padding-left: 40px;">“(i) accommodation provided by a care home service provider or by a local authority under the Social Work (Scotland) Act 1968(86);</p>

(84) S.I. 1987/1968.

(85) Amended by S.I. 1997/2197, regulation 5(7), 2002/668, article 16(7) and Schedule 4 and 2003/455, Schedule 1, paragraph 21.

(86) 1968 c. 49.

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	(ii) is in accommodation provided by a local authority under sections 21 to 24 and 26 of the National Assistance Act 1948 (87)
	In the first column of paragraph 9(b) for sub-paragraphs (iii) and (iv) substitute— “(iii) accommodation provided by a care home service provider or by a local authority under the Social Work (Scotland) Act 1968; (iv) is in accommodation provided by a local authority under sections 21 to 24 and 26 of the National Assistance Act 1948”.
	After paragraph 10 insert— “ 10ZA. A claimant who is a lone parent who is temporarily in accommodation provided by a care home service provider or by a local authority under sections 21 to 24 and 26 of the National Assistance Act 1948. 10ZB. Any amount applicable to the claimant under paragraph 1(1) of Schedule 4A, determined as if he were a single claimant plus— (a) in respect of each child who is a member of his family, the appropriate amount in respect of him prescribed in paragraph 2 of Schedule 2 or under this Schedule as appropriate; and (b) any amount which would be applicable to the claimant, if he were not living away from home, under regulation 17(1) (c) or (d) in so far as it relates to the lone parent premium and family premium under paragraph 8 of Schedule 2.”.

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide in respect of persons specified in the regulations, for the remission or repayment of the whole or part of certain charges which would otherwise be payable by those persons under the National Health Service (Scotland) Act 1978 (“the Act”) and the National Health Service (Primary Care) Act 1997 (“the 1997 Act”). They also provide in respect of persons specified in the Regulations, for the payment, as set out, of certain travelling expenses, including those of the person’s companion, and certain costs of overnight accommodation for the person and their companion.

Regulation 3 provides for full remission of charges for drugs, medicines, appliances and pharmaceutical services in pursuance of section 69(1) of the Act, charges for dental appliances and dental treatment in pursuance of section 70(1A) or section 71(1) of the Act or of section 20(1) of the 1997 Act and the payment of the travelling expenses, to persons qualifying under regulation 4.

Regulation 4 describes the various qualifications which entitle persons to remission of charges and/or payment of travelling expenses.

Regulation 5 provides for the partial remission of charges for wigs, fabric supports and surgical brassieres in pursuance of section 69(1) of the Act, charges for dental appliances and dental treatment in pursuance of section 70(1A) or section 71(1) of the Act or of section 20(1) of the 1997 Act and relevant travelling expenses, to persons who meet the relevant criteria.

Regulation 6 provides for when payment is to be made by either an NHS trust or a Health Board.

Regulation 7 provides for the payment of expenses to persons living or working in specific parts of Scotland who attend hospitals elsewhere and who do not otherwise qualify under regulation 4.

Regulation 8 provides the method of calculation of the resources or requirements of a person who makes a claim for full or partial remission of charges or payment of travelling expenses.

Regulation 9 provides the procedure for processing claims for remission or payment by the Scottish Ministers and for the issue of a notice of entitlement to a person.

Regulation 10 provides for the issue by the Scottish Ministers of a notice of entitlement to a person, and to the family members of that person where they are entitled to remission and payment in full or in part in terms of regulations 3 and 5.

Regulation 11 provides for the repayment of relevant charges or travelling expenses to persons entitled to remission or payment who had paid the relevant charges or incurred the travelling expenses.

Regulation 12 provides for the reimbursement of payments or repayments made by a Health Board or NHS Trust which is providing treatment under an NHS Contract by the Health Board responsible for the healthcare of the person receiving treatment.

Regulation 13 makes transitional provisions relating to applications and remissions under previous Regulations.

Regulation 14 gives effect to the revocation of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 2003 ([S.S.I. 2003/376](#)).

The Schedule sets out in detail the method of calculation of the income and capital of claimants.

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