
STATUTORY INSTRUMENTS

2003 No. 2382

NATIONAL HEALTH SERVICE, ENGLAND

**The National Health Service (Travel Expenses
and Remission of Charges) Regulations 2003**

| | | |
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| <i>Made</i> | - - - - | <i>14th September 2003</i> |
| <i>Laid before Parliament</i> | | <i>15th September 2003</i> |
| <i>Coming into force</i> | - - | <i>6th October 2003</i> |

The Secretary of State for Health, in exercise of the powers conferred on him by sections 37(1C), 83A and 126(4) of the National Health Service Act 1977(1) and of all powers enabling him in that behalf hereby makes the following Regulations:

PART I

GENERAL AND INTRODUCTION

Citation, commencement and application

1.—(1) These Regulations may be cited as the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 and shall come into force on 6th October 2003.

(2) These Regulations apply to England.

Interpretation

2. In these Regulations—

“the Act” means the National Health Service Act 1977;

(1) 1977 c. 49. Section 83A was inserted by section 14(1) of the Social Security Act 1988 (c. 7) and amended by section 25 of, and paragraph 6 of Schedule 2 to, the Health and Medicines Act 1988 (c. 49), section 41(10) of, and paragraph 19 of Schedule 2 to, the National Health Service (Primary Care) Act 1997 (c. 46), article 2 of S.I.1998/2385, article 3(1) of, and paragraph 13 of Schedule 1 to, S.I.2000/90, section 66(1) of, and paragraph 18(5) of Schedule 9 to, the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), section 2(1) of, and paragraph 40 of Schedule 1 to, the Health Authorities Act 1995 (c. 17) and section 2(5) of, and paragraphs 1 and 32 of Part 1 of Schedule 2 to, the National Health Service Reform and Health Care Professions Act 2002 (c. 17). Section 126(4) was amended by section 65(2) of the 1990 Act and by paragraph 37(6) of the Health Act 1999 (c. 8). See section 28(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 these provisions are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales; by article 2(a) of the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672, as amended by section 66(5) of the 1999 Act.

- “the 1990 Act” means the National Health Service and Community Care Act 1990(2);
- “abroad” means any place outside the United Kingdom;
- “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 regulation 20 of the National Assistance (Assessment of Resources) Regulations 1992(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);
- “care home” has the meaning given in section 3 of the Care Standards Act 2000(6);
- “child tax credit” means a child tax credit under section 8 of the Tax Credits Act 2002(7);
- “claimant” means a person who makes a claim in accordance with regulation 7 or regulation 11;
- “the Charges Regulations” means the National Health Service (Charges for Drugs and Appliances) Regulations 2000(8);
- “couple” has the meaning given in section 137 of the Social Security Contributions and Benefits Act 1992;
- “date of claim” means the date on which a claim made under regulation 7 or regulation 11 is received 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 given by section 137(1) of the Social Security Contributions and Benefits Act 1992 as it applies to income support, except that—
- (a) in regulation 5(1)(d), in relation to a person who is receiving income based jobseeker’s allowance it has the meaning given in section 35 of the Jobseekers Act 1995(9),
 - (b) in regulations 5(1)(e) and 8(2) it has the meaning assigned to it by regulation 2(2) of the Tax Credits (Definitions and Calculation of Income) Regulations 2002(10), and
 - (c) where a claim has been made for support under Part VI of the Immigration and Asylum Act 1999(11), it means the asylum-seeker who has made that claim and any dependant, as defined in section 94 of that Act, whom he has included in that claim and the references to “family” in regulations 5(2)(c) and 8(1), (3) and (7) shall be construed accordingly;
- “full rate” means the rate determined under section 26(2) of the National Assistance Act 1948;
- “full time student” has the meaning given in regulation 61 of the Income Support Regulations;
- “health care professional” means a person who is a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002(12);

(2) 1990 c. 19.

(3) 1948 c. 29.

(4) 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. 21.

(8) S.I. 2000/620 as amended by S.I. 2000/2393, S.I. 2000/3189, S.I. 2001/746, S.I. 2001/2887, S.I. 2002/548, S.I. 2002/2352, S.I. 2003/585, S.I. 2003/699 and S.I. 2003/1084.

(9) 1995 c. 18.

(10) S.I. 2002/2006.

(11) 1999 c. 33.

(12) 2002 c. 17.

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

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

“the Income Support Regulations” mean the Income Support (General) Regulations 1987⁽¹⁴⁾;

“NHS charge” has the meaning given in regulation 4;

“NHS contract” has the meaning given in section 4(1) of the 1990 Act;

“NHS travel expenses” and “NHS foreign travel expenses” have the meanings given in regulation 3;

“NHS trust” has the meaning given in section 5 of the 1990 Act;

“partner” means where a claimant—

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

“pension credit guarantee credit” shall be construed in accordance with sections 1 and 2 of the State Pension Credit Act 2002⁽¹⁵⁾;

“pension credit savings credit” shall be construed in accordance with sections 1 and 3 of the State Pension Credit Act 2002;

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

“provider” means the provider of any services mentioned in regulation 3(1)(a);

“relevant date” means—

- (a) in the case of a claim under regulation 7, the date of the claim; and
- (b) in the case of a claim under regulation 11(2) the date when the NHS charge or NHS travel expenses were paid;

“relevant income” has the meaning given in section 7(2) of the Tax Credits Act 2002;

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

“trade dispute” has the same meaning as in section 35(1) of the Jobseekers Act 1995;

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

“working tax credit” means working tax credit under the Tax Credits Act 2002.

NHS travel expenses

3.—(1) In these Regulations “NHS travel expenses” means the travel expenses which a person necessarily incurs—

- (a) in attending—
 - (i) a health service hospital,
 - (ii) any other establishment managed by an NHS trust or a Primary Care Trust, or
 - (iii) any other place in the United Kingdom,

⁽¹³⁾ S.I. 1987/1969.

⁽¹⁴⁾ S.I. 1987/1967.

⁽¹⁵⁾ 2002 c. 16.

for the provision of any services (except personal medical or personal dental services provided under section 28C of the Act) under the care of a consultant in accordance with Part I of the Act; and

- (b) in travelling to a port in Great Britain for the purpose of travelling abroad in order to receive services provided pursuant to arrangements made under section 23 of the Act or paragraph 13 of Schedule 2 to the 1990 Act.

(2) In these Regulations “NHS foreign travel expenses” means the travel expenses which a person necessarily incurs in travelling abroad from a port in Great Britain in order to receive services pursuant to arrangements made under section 23 of the Act or paragraph 13 of Schedule 2 to the 1990 Act.

(3) NHS travel expenses and NHS foreign travel expenses include the travel expenses of a companion in a case where the person to whom services are provided is either—

- (a) a child; or
- (b) a person whose medical condition is such that, in the opinion of a doctor involved in the provision of the services or, where appropriate, another health care professional so involved, a companion is necessary.

(4) A person who wishes to rely on entitlement to NHS travel expenses must—

- (a) unless he is a person who by virtue of regulation 5(1) is not required to make such a claim, make a claim to entitlement under regulation 7; and
- (b) make an application for payment of travel expenses under regulation 10.

(5) The amount of any NHS travel expenses to which a person is entitled under these Regulations—

- (a) must be calculated by reference to the cost of travelling by the cheapest means of transport which is reasonable having regard to the person’s age, medical condition and any other relevant circumstances; and
- (b) where travel is by private car, may include a mileage allowance and car parking expenses.

(6) A person is entitled to payment of NHS foreign travel expenses only where the health service body which made the arrangements for the provision of services abroad agrees the mode and cost of travel and the necessity or otherwise for a companion before the costs are incurred.

Remissible NHS charges

4.—(1) In these regulations “NHS charge” means any charge which would otherwise be payable—

- (a) in accordance with regulations made under section 77(1) of the Act, for the supply of drugs, medicines, appliances and pharmaceutical services;
- (b) in accordance with regulations made under section 78(1A) of the Act, for the supply of dentures and other dental appliances; and
- (c) in accordance with regulations made under section 79(1) of the Act or section 20(1) of the National Health Service (Primary Care) Act 1997(16), for the provision of dental treatment.

(2) A person who wishes to rely on entitlement under these Regulations to remission of a NHS charge must—

- (a) unless he is a person who, by virtue of regulation 5(1), is not required to make such a claim, make a claim to entitlement under regulation 7 or regulation 11; and

- (b) provide any declaration or evidence of entitlement which is required under the Charges Regulations.

PART II

ENTITLEMENT TO PAYMENT OF NHS TRAVEL EXPENSES AND REMISSION OF NHS CHARGES

Entitlement to full remission and payment

5.—(1) Subject to paragraph (3), a person is entitled, without making a claim under regulation 7 (claims to entitlement), to the payment in full of NHS travel expenses and the full remission of a NHS charge if—

- (a) he is receiving income support;
- (b) he is receiving income based jobseeker's allowance;
- (c) he is receiving pension credit guarantee credit;
- (d) he is a member of the same family as a person who is receiving income support, income based jobseeker's allowance or pension credit guarantee credit; or
- (e) he is a member of a family one member of which is receiving—
 - (i) working tax credit and child tax credit,
 - (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 made under section 14 of the Tax Credits Act 2002 is determined at the time of the award not to exceed £14,200.

(2) Subject to paragraph (3), the following persons are entitled to the payment in full of NHS travel expenses and the remission in full of a NHS charge but are required to make a claim for such payment or remission in accordance with regulation 7 (claims to entitlement)—

- (a) 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 is unable to pay for that accommodation at the standard rate or, as the case may be, the full rate;
- (b) an asylum-seeker for whom support is provided under Part VI of the Immigration and Asylum Act 1999;
- (c) a member of the same family as an asylum seeker described in sub-paragraph (b);
- (d) a relevant child within the meaning of section 23A of the Children Act 1989(17) whom a responsible local authority is supporting under section 23B(8) of that Act;
- (e) any other person who satisfies the Secretary of State in accordance with Part IV that his capital resources do not exceed the capital limit and that his requirements equal or exceed his income resources; and
- (f) a member of the same family as a person described in sub-paragraph (e).

(3) A person's entitlement under paragraph (1) or (2) arises only where he is of a description mentioned in either of those paragraphs at the time when—

- (a) the charge is made;
- (b) the NHS travel expenses are incurred; or
- (c) in the case of a charge for the supply of a denture or other dental appliance mentioned in regulation 4(1)(b) or for dental treatment mentioned in regulation 4(1)(c), either—
 - (i) the arrangements for the treatment or course of treatment are made, or
 - (ii) the charge is made.

Entitlement to partial remission and payment

6.—(1) Subject to paragraphs (2) to (4), a person is entitled to the payment in part of any NHS travel expenses and remission in part of a NHS charge provided that at the time the travel expenses are incurred or the charge is made—

- (a) his capital resources do not exceed the capital limit; and
- (b) either—
 - (i) his income resources exceed his requirements by less than a third of the charge or, as the case may be, by less than the travel expenses, or
 - (ii) he is a member of the family of a person described in sub-paragraph (b)(i),
 but is required to make a claim for such remission or payment in accordance with regulation 7 (claims to entitlement).

(2) In the case of a NHS charge mentioned in regulation 4(1)(a), the entitlement under paragraph (1) to partial remission applies only to a charge for the supply of an appliance specified in Schedule 1 to the Charges Regulations (fabric supports and wigs) and not to a charge for any other appliance or for drugs, medicines or pharmaceutical services.

(3) Subject to paragraph (4), the amount to which a person is entitled under paragraph (1) is—

- (a) in the case of a NHS charge, the difference between the charge and three times the amount by which his income resources exceed his requirements; and
- (b) in the case of recoverable travelling expenses, subject to regulation 9 (travel expenses of persons resident in the Isles of Scilly), the difference between the amount of the expenses incurred and the amount by which his income resources exceed his requirements.

(4) In the case of a NHS charge—

- (a) for dental treatment or for the supply of a dental appliance under Part II of the Act (general dental services), or
- (b) for dental treatment under Part I of the National Health Service (Primary Care) Act 1997 (personal dental services),

the charge which is partially remissible under this regulation and which must be used for the purposes of the calculation required under paragraph (3)(a) is the charge made for one course of treatment, including any charge made for a dental appliance supplied in that course of treatment.

Claims to entitlement

7.—(1) Subject to paragraph (3), a person who wishes to claim entitlement under regulation 5(2) (entitlement to full remission and payment) or regulation 6(1) (entitlement to partial remission and payment) must make a claim to the Secretary of State on a form either provided for the purpose by him or approved by him.

(2) On a claim under paragraph (1), the claimant must provide such evidence and information as the Secretary of State may reasonably request within such time as the Secretary of State may reasonably request.

(3) A claim may be made on behalf of another person where that person is unable, by reason of mental or physical incapacity, to make the claim himself.

(4) Where a claimant does not comply with the Secretary of State's requests in respect of evidence, information and timing mentioned in paragraph (2), the Secretary of State may notify the claimant that the claim will not be determined and must be regarded as closed.

Notices of entitlement

8.—(1) Where the Secretary of State determines, on a claim made under regulation 7 (claims to entitlement), that the claimant and any member of his family are entitled to any remission of a NHS charge or any payment in respect of NHS travel expenses, he must issue a notice of entitlement to the claimant.

(2) Where a person is entitled to full remission of a NHS charge and payment in full of NHS travel expenses because he is a member of a family described in regulation 5(1)(e) (tax credit families), the Secretary of State 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 NHS charge or NHS travel 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;
- (b) in the case of a notice issued to a relevant child, it is valid for 12 months or until the child's 18th birthday, whichever is the later; and
- (c) in the case of a notice issued to a person mentioned in regulation 5(2)(b) (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 Secretary of State 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 his family, during the life 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 amounts 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 7 at any time during the life of the notice if he considers that by reason of a change in his financial circumstances, or those of any member of his family, the amounts 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 Secretary of State in any case where his claim is subsequently 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 charges and payment of travel expenses in accordance with these Regulations.

Travel expenses of persons resident in the Isles of Scilly

9.—(1) Any person who—

- (a) is resident in the Isles of Scilly;
- (b) incurs NHS travel expenses; and
- (c) is not entitled to payment in full of those travel expenses in accordance with regulation 5,

is entitled to payment of his NHS travel expenses but is required to make a contribution in accordance with paragraphs (2) and (3).

(2) A person who would be entitled to payment in part of NHS travel expenses in accordance with regulation 6(1) is required to contribute either the amount which he would have been required to pay under regulation 6(3)(b) or £5, whichever is the less.

(3) Any other person is required to contribute £5.

PART III

PAYMENTS AND REPAYMENTS

Payment of NHS travel expenses

10.—(1) Subject to paragraphs (2) to (5), where a person is entitled in accordance with regulation 5 or 6 to a payment in respect of NHS travel expenses—

- (a) he must make an application for payment to the provider; and
- (b) the provider must calculate the actual amount payable in accordance with these Regulations and make the payment.

(2) Where services are provided pursuant to arrangements made under section 23 of the Act or paragraph 13 of Schedule 2 to the 1990 Act, the application for payment may be made to, and the calculation and payment may be made by, either the provider or the health service body which made those arrangements.

(3) In a case falling within regulation 3(1)(b) (travel to a port) the application for payment must be made to, and the calculation and payment must be made by, the health service body which made the arrangements referred to in that provision.

(4) A person who makes an application for payment in respect of NHS travel expenses must sign a declaration of entitlement and provide such evidence of his entitlement and of his travel expenses as the provider, or as the case may be, the health service body which made the arrangements, may require.

(5) Payment of NHS travel expenses may be made before the expenses are incurred.

Claims for repayment

11.—(1) A person who is entitled under these Regulations to full or partial remission of a NHS charge or to full or partial payment in respect of NHS travel expenses and who pays such a charge or such travel expenses without exercising his right to remission or payment, is entitled to be repaid that amount which would have been remitted or paid.

(2) A person who wishes to exercise his right to repayment under paragraph (1) must make a claim to the Secretary of State on a form provided for the purpose by him or approved by him.

(3) A claim under paragraph (2) must be made within three months of the date on which the payment of the NHS charge or the NHS travel expenses was made or within such longer period as the Secretary of State may for good cause allow.

(4) Paragraphs (2) to (5) of regulation 7 (claims to entitlement) apply to a claim under this regulation.

Repayments

12.—(1) Where the Secretary of State is satisfied that a claimant is entitled to any repayment under regulation 11, he must—

(a) in the case of a repayment to be made—

(i) in respect of a NHS charge made by an NHS trust or a Primary Care Trust, for an appliance specified in Schedule 1 to the Charges Regulations (fabric supports and wigs), calculate the amount payable and notify in writing the NHS trust or the Primary Care Trust of the claimant's entitlement and the amount to be paid,

(ii) in respect of NHS travel expenses incurred by a person in attending a hospital or any other place managed by an NHS trust or a Primary Care Trust notify in writing the NHS trust or the Primary Care Trust of the claimant's entitlement; or

(b) in a case falling within regulation 3(1)(b) (travel to a port) notify in writing the health service body which made the arrangements referred to in that provision of the claimant's entitlement; or

(c) in any other case, cause a repayment to be made to the claimant in such manner as appears to the Secretary of State to be appropriate in the circumstances of the particular case.

(2) Where an NHS trust, a Primary Care Trust or other health service body receives notification as mentioned in paragraph (1), it must calculate any amount payable in respect of NHS travel expenses in accordance with these Regulations and make any repayment due to a claimant in respect of such travel expenses or NHS charge.

(3) A person who is entitled to repayment in respect of NHS travel expenses must sign a declaration of entitlement and provide such evidence of his entitlement and of his travel expenses as the health service body which is making the repayment may require.

(4) The Dental Practice Board, constituted under section 37 of the Act, is authorised to carry out any activity of the Secretary of State under paragraph (1)(a) or (c) of this regulation relating to the repayment of charges for dental appliances and dental treatment described in regulation 4(1)(b) or (c), including repayment of any amount due to a claimant.

Reimbursement of payments made in respect of NHS travel expenses

13. Where a provider makes a payment under regulation 10(1) or (2) or a repayment under regulation 12(a) in respect of NHS travel expenses incurred by a person who is receiving services from the provider, the amount of the payment or repayment in question may be reimbursed to the provider by the health service body for which those services are provided.

Payment and repayment of NHS foreign travel expenses

14.—(1) A person who wishes to claim entitlement to payment or repayment for NHS foreign travel expenses must apply in writing to the health service body which arranged the services referred to in regulation 3(2) within 3 months of the expenses having been incurred or such further period as that body may for good cause allow.

(2) Paragraphs (2) and (3) of regulation 11 (claims for repayment) apply to claims (whether for payment or repayment) made under this regulation as if the references to the Secretary of State in those paragraphs were references to the health service body which arranged the services referred to in regulation 3(2).

PART IV

CALCULATION OF RESOURCES AND REQUIREMENTS

General

15.—(1) Where it is necessary that the resources or requirements of a person should be calculated for the purposes of these Regulations, they must be calculated by the Secretary of State according to the provisions of this Part and Schedule 1.

(2) The resources and requirements of a person must be calculated—

- (a) in the case of a claim made under regulation 7 (claims to entitlement) by reference to his resources and requirements at the date of claim; or
- (b) in the case of a claim for repayment made under regulation 11(2) (claims for repayment) by reference to his resources and requirements at the date when the NHS charge or NHS travel expenses were paid.

(3) Where a claimant is a member of a family, the resources and requirements of the other members of his family must be calculated in the same manner as those of the claimant and must be taken into account as if they were his resources and requirements, and in this Part and in the provisions referred to in Schedule 1, unless the context otherwise requires, any reference to the claimant includes the other members of his family.

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

(5) In the application of the Income Support Regulations as mentioned in regulation 16 and regulation 17, the provisions of those Regulations shall be applied as if—

- (a) references to income support were to the remission of NHS charges and the payment of any NHS travel expenses,
- (b) references in any of those provisions to any other of those provisions were to that other provision as modified in accordance with regulation 16(4) or, as the case may be, regulation 17(4); and
- (c) the State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) Regulations 2002(18) had not been made.

Calculation of resources

16.—(1) A claimant's resources must be calculated in terms of income and capital.

(2) Income must be calculated on a weekly basis according to the method of calculating or estimating income prescribed by the provisions of the Income Support Regulations, subject to the modifications referred to in paragraph (4).

(3) Capital must 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 Regulations, subject to the modifications referred to in paragraph (4).

(4) The provisions of the Income Support Regulations apply and those provisions specified in column 1 of Table A in Schedule 1 shall be applied in accordance with the modifications specified in the corresponding entries in column 2.

Calculation of requirements

17.—(1) A claimant's requirements must be calculated as being the amount referred to in sub-paragraph (a) less, where applicable, the amount referred to in sub-paragraph (b) below, as follows—

- (a) the amount which represents the aggregate of—
 - (i) the weekly applicable amount which would apply to him, including that in respect of any other member of his family, in connection with a claim for income support as specified by the Income Support Regulations, but subject to the modifications referred to in paragraph (4), and
 - (ii) subject to paragraph (2), the weekly amount of any council tax which the claimant or his partner is liable to pay under Part I of the Local Government Finance Act 1992⁽¹⁹⁾;
- (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 his family is entitled under the provisions of Part VII of the Social Security Contributions and Benefits Act 1992.

(2) Subject to paragraph (3), where a claimant is jointly and severally liable for council tax in respect of a dwelling in which he 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) Paragraph (2) shall not apply where a claimant is jointly and severally liable for council tax in respect of a dwelling with only his partner.

(4) The provisions of the Income Support Regulations apply and those provisions specified in column 1 of Table B in Schedule 1 shall be applied in accordance with the modifications specified in the corresponding entries in column 2.

PART V

CONCLUSION

Transitional Provisions

18.—(1) Any claim made under the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988⁽²⁰⁾ which has not been determined before 6th October 2003 must be treated as if it were a claim under these Regulations and determined accordingly.

(2) A notice of entitlement to remission of a NHS charge or to payment of travelling expenses which has been issued under the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988 remains valid until its expiry in accordance with the provisions of those Regulations.

⁽¹⁹⁾ 1992 c. 14.

⁽²⁰⁾ 1988 S.I. 1988/551.

Repeals

19. The Regulations listed in column 1 of Schedule 2 are repealed to the extent indicated in column 2(21).

Signed by authority of the Secretary of State for Health

14th September 2003

Rosie Winterton
Minister of State,
Department of Health

(21) References in any enactment to the regulations so repealed are to be construed as references to the re-enactment in these Regulations. See section 17(2) of the Interpretation Act 1978 (c. 30).

SCHEDULE 1

Regulations 15, 16 and 17

MODIFICATIONS OF THE INCOME SUPPORT (GENERAL) REGULATIONS 1987

TABLE A

| <i>Column 1</i> | <i>Column 2</i> |
|-----------------|--|
| Regulation 23 | In paragraph (1) for “section 22(5) of the Act” substitute “regulation 15(3) of the National Health Service (Travel Expenses and Remission of Charges) 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;</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) omit the words from “For the purposes” to “income support”. |
| | In paragraph (1)(a) for “the weekly amount of his income” substitute “the normal weekly amount of his income at the relevant date”. |
| Regulation 29 | Omit this regulation. |
| Regulation 30 | In paragraph (1) omit the words “Except where paragraph (2) applies”. |

Status: This is the original version (as it was originally made).

| <i>Column 1</i> | <i>Column 2</i> |
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| | <p>In paragraph (1)(a) at the beginning insert the words “except where sub-paragraph (b) or (c) applies.”.</p> <p>In paragraph (1)(b) at the beginning insert the words “except where sub-paragraph (c) applies.”.</p> <p>After paragraph (1)(b) insert the word “or” and the following sub-paragraph—</p> <p style="padding-left: 40px;">“(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.”.</p> <p>After paragraph (1) insert the following new paragraph—</p> <p style="padding-left: 40px;">“(1A) In paragraph (1)(c)—</p> <p style="padding-left: 80px;">(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;</p> <p style="padding-left: 80px;">(b) “profit and loss account” means a financial statement showing the net profit or loss of the employment for the period in question; and</p> <p style="padding-left: 80px;">(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.”.</p> <p>Omit paragraph (2).</p> |
| Regulation 31 | Omit this regulation. |
| Regulation 32 | <p>In paragraph (1) for “regulation 29” substitute “regulation 28” and for “subject to paragraphs (2) to (7)” substitute “subject to paragraph (6)”.</p> <p>In paragraph (6) omit “and has changed more than once”.</p> <p>Omit paragraphs (3)–(5), (6A) and (7).</p> |

| <i>Column 1</i> | <i>Column 2</i> |
|-----------------|--|
| Regulation 35 | <p>Omit paragraphs (1)(c), (1)(g), (1)(i), (1A) and (2A).</p> <p>In paragraph (1)(d) omit the words after “employment”.</p> <p>In paragraph (2)(a) omit the words “subject to paragraph (2A)”.</p> |
| Regulation 36 | <p>In paragraph (1) for “regulation 29 (calculation of earnings of employed earners)” substitute “regulation 28 (calculation of income)”.</p> |
| Regulation 38 | <p>In paragraph (3) for “paragraph (9)” substitute “paragraphs (3A) or (9)”.</p> <p>After paragraph (3) insert—</p> <p>“(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 (whether or not received in that period), less—</p> <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 Contributions and Benefits Act, 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 in respect of a retirement annuity contract or a personal pension scheme.”. <p>In paragraph (4) after “the net profit of the employment” insert “, except where paragraph (3A) or (9) applies,”.</p> |

Status: This is the original version (as it was originally made).

| <i>Column 1</i> | <i>Column 2</i> |
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| Regulations 39A–39D | Omit these regulations. |
| 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)”. |
| Regulation 41 | Omit paragraphs (3A) to (5). In paragraph (1) for “on the first day” to “the date of that supersession” substitute “at the relevant date”. |
| Regulation 42 | Omit paragraphs (3) and (4). In paragraph (4) omit the words from “and in any case” to “(trade disputes) applies”. |
| Regulation 44 | In paragraph (1) for “on the first day” to “the date of that supersession” substitute “at the relevant date”. |
| Regulation 45 | Omit paragraphs (2), (3), (8), and (9). For this regulation substitute— “Capital Limit 45. For the purposes of Regulations 5(2)(e) and 6(1)(a) of the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 the capital limit is— <ul style="list-style-type: none"> (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; and (c) for a claimant aged 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) omit the words from “For the purposes” to “income support”. |

| <i>Column 1</i> | <i>Column 2</i> |
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| Regulation 48 | <p>In paragraph (2) omit the words from “Except” to “applies”.</p> <p>In paragraph (5) omit the words “Subject to paragraph (6),”.</p> <p>Omit paragraphs (6) and (10)(a) and (b).</p> |
| Regulation 49 | <p>In sub-paragraph (b)(i) for “first day” to “date of that supersession” substitute “relevant date”.</p> |
| Regulation 51 | <p>Omit sub-paragraph (1)(b).</p> |
| Regulation 51A | <p>Omit this regulation.</p> |
| Regulation 53 | <p>In paragraph (1A) for “£10,000” on each occasion it appears substitute “£12,000” and for “£16,000” substitute “£19,500”.</p> <p>For paragraph (1B) substitute—</p> <p>“(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.”.</p> <p>In paragraph (3) for the reference to “regulation 60” substitute reference to “regulation 25.”</p> |
| Regulations 54 to 60E | <p>Omit these regulations.</p> |
| Regulation 61 | <p>In paragraph (1) in the definition of “academic year” after “September” insert “, or 1st August in the case of a student attending a course in Scotland.”</p> |
| Regulation 62 | <p>In paragraph (3) from the beginning to the words “shall be apportioned” substitute “Subject to paragraph (3A), a student’s grant income shall be apportioned”.</p> <p>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”.</p> <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) omit “under the provisions referred to in paragraph (3)” and “or, if there</p> |

Status: This is the original version (as it was originally made).

| <i>Column 1</i> | <i>Column 2</i> |
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| | are 53 benefit weeks (including part-time weeks) in the year, 53”. |
| | Omit paragraph (3B). |
| | 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”. |
| Regulation 63 | In paragraph (2) omit the words “or, if there are 53 benefit weeks (including part-time weeks) in the year, 53”. |
| Regulation 64 | In paragraph (1)(c) omit the words “or if there are 53 benefit weeks (including part-time weeks) in the year, 53”. |
| Regulation 65 | For the words “No part” substitute “(1) Subject to paragraph (2), no part”. |
| | After paragraph (1) insert the following paragraph— |
| | <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 a Minister of the Crown or an education authority—</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 contributions as assessed by a Minister of the Crown or an education authority.”. |
| Regulation 66A | For paragraph (2) substitute— |
| | <p>“(2) In calculating the weekly amount of the loan to be taken into account as income—</p> <ul style="list-style-type: none"> (a) except where sub-paragraph (b) applies, the loan shall be apportioned equally between the 52 weeks in the academic year; (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 |

| <i>Column 1</i> | <i>Column 2</i> |
|-----------------|---|
| Schedule 8 | <p>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 the following paragraphs—</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> <p>In paragraph 4(2) after “disability premium” insert “or higher pensioner premium”.</p> <p>In paragraph 4 omit sub-paragraphs (3), (4), and (7).</p> <p>In paragraph 6A(1) for “none of paragraphs 4 to 6 applies” substitute “paragraph 4 does not apply”.</p> <p>In paragraph 7 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 omit “part-time”.</p> <p>After paragraph 8 insert the following paragraph—</p> <p>“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> |

Status: This is the original version (as it was originally made).

| <i>Column 1</i> | <i>Column 2</i> |
|-----------------|---|
| Schedule 9 | <p>In paragraph 9 for “8” substitute “8A”.</p> <p>Omit paragraphs 6, 10, 13 and 16.</p> <p>In paragraph 15, in sub-paragraph (1) omit the reference to “paragraph 37”, and</p> <p>Omit sub-paragraph (3)(b).</p> <p>In paragraph 16 for “paragraphs 36 and 37” substitute “paragraph 36”.</p> <p>In paragraph 19 for “£4.00” substitute “£20.00” and omit sub-paragraph (b).</p> <p>For paragraph 21(1) substitute “Subject to paragraph (2), any income in kind.”. omit paragraph 21(3).</p> <p>In paragraph 28 omit the words from “Except” to “return to work”.</p> <p>For paragraph 29(1) substitute the following paragraph—</p> <p style="padding-left: 40px;">“(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 which qualify under paragraph 17(1)(zb) or (zc) of Schedule 3, or for repairs or improvements to the dwelling occupied as the home to the extent that it is used to meet—</p> <p style="padding-left: 80px;">(a) repayments of unsecured loans for the purposes of carrying out repairs and improvements to the dwelling occupied as the home; or</p> <p style="padding-left: 80px;">(b) any amount due by way of premiums on that policy.”.</p> <p>Omit paragraphs 30, 34 and 37.</p> <p>After paragraph 77 insert the following paragraph—</p> <p style="padding-left: 40px;">“77A. Any payment of State Pension Credit Savings Credit as defined under sections 1 and 3 of the State Pensions Credit Act 2002.”.</p> |
| Schedule 10 | <p>In paragraph 17 for the words from “Except” to “payment” substitute the words “Any payment”.</p> |

TABLE B

| <i>Column 1</i> | <i>Column 2</i> |
|-----------------|--|
| Regulation 3 | <p>In paragraph (1) omit the words “or with whom a claimant normally resides”.</p> <p>In paragraph (2B) omit the words “subject to paragraph (2C)”.</p> <p>Omit paragraph (2C).</p> |
| Regulation 17 | <p>In paragraph (1) 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 the words “mortgage interest payments or” and “other”.</p> |
| Regulation 18 | <p>In paragraph (1) 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 the following Regulation—</p> <p style="padding-left: 40px;">“Care Homes.</p> <p style="padding-left: 40px;">19A Where the claimant lives permanently in—</p> <p style="padding-left: 80px;">(a) a care home within the meaning of Section 3 of the Care Standards Act 2000; or</p> <p style="padding-left: 80px;">(b) in accommodation provided by a local authority under sections 21 to 24 and 26 of the National Assistance Act 1948,</p> <p style="padding-left: 40px;">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> |
| Regulation 21 | <p>In paragraph (1) omit the words from “Subject to” to “amounts”.</p> <p>In paragraph (3) omit the definition of “partner of a person subject to immigration control”.</p> |

Status: This is the original version (as it was originally made).

| <i>Column 1</i> | <i>Column 2</i> |
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| Regulations 21ZB and 22A Schedule 2 | <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> <p>Omit these regulations.</p> <p>In column (1) of the Table for sub-paragraphs (1) to (3) substitute—</p> <p style="padding-left: 2em;">“(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> <p>In paragraph 2(1) omit “for the relevant period specified in column (1)”.</p> <p>In paragraph 3(1)(a) omit the words from “to whom” to “(3) apply” and omit sub-paragraphs (2) to (7).</p> <p>For paragraph 10 substitute—</p> <p style="padding-left: 2em;">“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: 2em;">(2) Where the claimant has a partner, the condition is that he or his partner is aged not less than 60.”.</p> |

| <i>Column 1</i> | <i>Column 2</i> |
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| | <p>For paragraph 11(b) substitute the following sub-paragraph—</p> <p>“(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 and”.</p> <p>In paragraph 12(1)(a)(i) 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) after the words “the claimant” insert “or, as the case may be, his partner” and for sub-head (ii) substitute the following sub-head—</p> <p>“(ii) has been so entitled or so incapable for a continuous period of at least 28 weeks.”.</p> <p>In paragraph 12(6) 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) and 13(2)(b)(iii) for “normally residing” substitute the words “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> <p>(a) who satisfies a condition specified in paragraph 12(1)(a) or (b) of</p> |

Schedule 3

Status: This is the original version (as it was originally made).

| <i>Column 1</i> | <i>Column 2</i> |
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| | <p>Schedule 2 and whose capital does not exceed the capital limit; or</p> <p>(b) who is aged 75 or over and whose capital does not exceed the capital limit; or</p> <p>(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> |
| | <p>For paragraph 2(1)(c) substitute—</p> <p>“(c) he in practice shares the housing costs with other 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.”.</p> |
| | <p>Omit paragraphs 1A, 2(2), 3(7) to (10), 6 to 16 and 18(7)(e).</p> |
| | <p>In paragraph 3(12) for “not exceeding” substitute “is not likely to exceed”;</p> |
| | <p>For paragraph 4 substitute—</p> <p>“4. No amount may be met under the provision 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 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.”.</p> |
| | <p>In paragraph 17—</p> <p>(a) in the cross heading for the word “Other” substitute the word “Qualifying”;</p> <p>(b) in sub-paragraph (1) omit head (f) and immediately before (a) insert—</p> <p>“(za) any periodical payment which a person is</p> |

| <i>Column 1</i> | <i>Column 2</i> |
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| | liable to make by way of rent in respect of a dwelling he occupies as his home; |
| | (zb) payments of interest and capital— |
| | (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, |
| | (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;”. |

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.

After sub-paragraph (3) insert the following new sub-paragraphs—

“(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—

- (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 of study vary from those in the rest of that period of study,

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| <i>Column 1</i> | <i>Column 2</i> |
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Schedule 3B

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.

(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.”.

For paragraph 18(7)(f) substitute—

“(f) to whom paragraph (2B) of regulation 3 (definition of non-dependant) would apply;”.

After Schedule 3B insert the following schedule—

“Schedule 4A

Applicable amounts of a person in accommodation within the meaning of Regulation 19A.

1.—(1) The applicable amount of a claimant to whom regulation 19A applies shall be the aggregate of—

- (a) subject to paragraphs 1(2) and 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
- (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.

(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

| <i>Column 1</i> | <i>Column 2</i> |
|-----------------|---|
| | that child or young person calculated in accordance with Part V in like manner as for the Claimant would exceed £3,000. |
| | <p>2.—(1) The allowance for personal expenses for the claimant and his partner (where appropriate) shall be that set out in Schedule 9 of the Social Security Claims and Payments Regulations 1987 at paragraph 4(2A)(a).</p> <p>(2) Where the claimant has a dependant child or children residing with him, the personal expenses allowed for each dependant shall be those set out in Schedule 9 of the Social Security Claims and Payments Regulations 1987 at paragraph 4 (2A)(a).”.</p> |
| Schedule 7 | <p>Omit the references in paragraph 1 to subparagraph (g) of regulation 17(1) and subparagraph (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 for subparagraphs (a)(i) and (ii) substitute the following—</p> <p>(a) (i) in a care home, or (ii) is in accommodation provided by a local authority under sections 21 to 24 and 26 of the National Assistance Act 1948”.</p> <p>In the first column of paragraphs 9(b)(iii) and (iv) substitute—</p> <p>(b) (iii) in a care home, or (iv) is in accommodation provided by a local authority under sections 21 to 24 and 26 of the National Assistance Act 1948.”.</p> |

After paragraph 10 insert the following paragraph—

10ZA. A claimant who is a lone parent who is claimant under paragraphs 1(1)

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temporarily in a care home or accommodation provided by a local authority under sections 21 to 24 and 26 of the National Assistance Act 1948.

(a) (a) in respect of each child who is a member of his family, the appropriate amount in respect of him prescribed in paragraph 2 Schedule 2 or under this Schedule as appropriate; and

(b) (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.”.

SCHEDULE 2

Regulation 19

REVOCATIONS

| <i>Column 1</i> | <i>Column 2</i> |
|---|-----------------------|
| National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988, S.I. 1988/551 . | The whole regulations |
| The National Health Service (Travelling Expenses and Remission of Charges) Amendment Regulations 1990, S.I. 1990/548 . | The whole regulations |
| The National Health Service (Travelling Expenses and Remission of Charges) Amendment No. 2 Regulations 1990, S.I. 1990/1661 . | The whole regulations |
| The National Health Service (Travelling Expenses and Remission of Charges) Amendment Regulations 1991, S.I. 1991/557 . | The whole regulations |
| The National Health Service (Travelling Expenses and Remission of Charges) Amendment Regulations 1992, S.I. 1992/1104 . | The whole regulations |
| The National Health Service (Travelling Expenses and Remission of Charges) Amendment Regulations 1993, S.I. 1993/608 . | The whole regulations |

| <i>Column 1</i> | <i>Column 2</i> |
|---|-----------------------|
| The National Health Service (Travelling Expenses and Remission of Charges) Amendment Regulations 1995, S.I. 1995/642 . | The whole regulations |
| The National Health Service (Travelling Expenses and Remission of Charges) Amendment No. 2 Regulations 1995, S.I. 1995/2352 . | The whole regulations |
| The National Health Service (Travelling Expenses and Remission of Charges) Amendment Regulations 1996, S.I. 1996/410 . | The whole regulations |
| The National Health Service (Travelling Expenses and Remission of Charges) Amendment (No. 2) Regulations 1996, S.I. 1996/1346 . | The whole regulations |
| The National Health Service (Travelling Expenses and Remission of Charges) Regulations 1996, Amendment (No. 3) S.I. 1996/2362 . | The whole regulations |
| The National Health Service (Travelling Expenses and Remission of Charges) Amendment Regulations 1997, S.I. 1997/748 . | The whole regulations |
| The National Health Service (Travelling Expenses and Remission of Charges) Amendment (No. 2) Regulations 1997, S.I. 1997/2393 . | The whole regulations |
| The National Health Service (Travelling Expenses and Remission of Charges) Amendment Regulations 1998, S.I. 1998/2417 . | The whole regulations |
| The National Health Service (Travelling Expenses and Remission of Charges) Amendment Regulations 1999, S.I. 1999/767 . | The whole regulations |
| The National Health Service (Travelling Expenses and Remission of Charges) Amendment Regulations 1999, S.I. 1999/2507 . | The whole regulations |
| The National Health Service (Travelling Expenses and Remission of Charges) Amendment Regulations 2000, S.I. 2000/621 . | The whole regulations |
| The National Health Service (Travelling Expenses and Remission of Charges) Amendment No. 2 S.I. 2000/837 . | The whole regulations |
| The National Health Service (Travelling Expenses and Remission of Charges) Amendment (No. 3) Regulations 2000, S.I. 2000/2870 . | The whole regulations |

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| <i>Column 1</i> | <i>Column 2</i> |
|---|-----------------------|
| The National Health Service (Travelling Expenses and Remission of Charges) Amendment Regulations 2001, S.I. 2001/742 . | The whole regulations |
| The National Health Service (Travelling Expenses and Remission of Charges) Amendment (No. 2) Regulations 2001, S.I. 2001/3065 . | The whole regulations |
| The National Health Service (Travelling Expenses and Remission of Charges) Amendment (No. 3) Regulations 2001, S.I. 2001/4043 . | The whole regulations |
| The National Health Service (Travelling Expenses and Remission of Charges) Amendment Regulations 2002, S.I. 2002/580 . | The whole regulations |
| The National Health Service (Travelling Expenses and Remission of Charges) Amendment Regulations 2003, S.I. 2003/671 . | The whole regulations |
| The National Health Service (Dental Charges) Regulations S.I. 1989/394 . | Regulation 7(2) |
| The National Health Service (Miscellaneous Dental Charges Amendments) Regulations 2002 S.I. 2353 . | Regulations 2–6 |

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations consolidate, with amendments, the provisions of the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988 (“the 1988 Regulations”). The 1998 Regulations and all subsequent amendments are repealed by regulation 19 and Schedule 2.

The Regulations make provision for people who are either in receipt of certain state benefits or who are on a low income to be reimbursed for travel expenses incurred in obtaining certain NHS services (NHS travel expenses) and for those same people to be exempt from the payment of certain NHS charges which would otherwise be payable. Regulation 3 defines NHS travel expenses and NHS foreign travel expenses. Regulation 4 identifies what NHS charges can be waived.

The principal changes in relation to travel expenses from the 1988 Regulations are as follows: the expenses of a companion can be claimed only where they are certified to be necessary in the opinion of a doctor or appropriate health care professional (regulation 3(3)); a person’s circumstances may be taken into account in determining the cheapest reasonable form of transport and in the case of car travel, a mileage allowance and parking expenses may be included (regulation 3(5)); and persons who seek to rely on their entitlement are required to sign a declaration of that entitlement and provide evidence both of the entitlement and of the travel costs incurred (regulation 10(4)).

Part II contains provision relating to entitlement. Regulation 5 governs entitlement to payment in full of travel expenses and full remission of charges. Regulation 6 makes provision for partial payment and partial remission. Those who are in receipt of certain state benefits or who are entitled to certain tax credits are not required to make a claim for entitlement under these Regulations on the basis that their income and capital resources will already have been assessed for the purposes of their entitlement to the benefit or tax credit. All others who wish to claim entitlement under the Regulations must make a claim under regulation 7. Regulation 8 makes provision for notices of entitlement to be issued to successful claimants. The principal change from the 1988 Regulations is that the provisions about validity have been considerably simplified. All notices of entitlement are now valid for 12 months from the date of the claim although there is provision for different time periods in the case of students, young people supported by a local Authority and asylum seekers (regulation 8(5)). Regulation 9 makes special provision for residents of the Isles of Scilly.

Part III contains provision about payment and repayment. Regulation 10 makes provision for payment of travel expenses. Once entitlement is established, the amount due is calculated and paid either by the provider of the services or by the health service body which made the arrangements for the services. Regulations 11 and 12 contain provision relating to repayment in any case where a person who is entitled to the payment of travel expenses or to the remission of a charge has in fact incurred the expense or paid the charge. Regulation 13 enables a provider of services who has made a payment in respect of some travel expenses to be repaid in cases where the services were provided under an agreement with another body. Regulation 14 deals with payment and repayment of NHS foreign travel expenses.

Part IV and Schedule 1 concern the method of determining certain people's entitlement under the Regulations. In the case mainly of those people who are not automatically entitled because they are in receipt of certain state benefits, what is required is a calculation of the claimant's and his family's income, capital and requirements. This is done by the application of modified provisions of the Income Support (General) Regulations 1987 ("the 1987 Regulations") as set out in Schedule 1. The reason for the disapplication in regulation 16(5)c) of the State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) Regulations 2002, is that by virtue of those Regulations people over 60 are no longer entitled to income support and are excluded from the 1987 Regulations. In order to preserve their position in relation to the payment of travel expenses and remission of charges, the amendments made to the 1987 Regulations by the 2002 regulations are disapplied.

These Regulations also reflect a number of changes from the 1988 Regulations which are minor or consequential drafting amendments.