

2008 No. 288

NATIONAL HEALTH SERVICE

**The National Health Service (Travelling Expenses and
Remission of Charges) (Scotland) Amendment (No. 2)
Regulations 2008**

Made - - - - *27th August 2008*

Laid before the Scottish Parliament *1st September 2008*

Coming into force - - *27th October 2008*

The Scottish Ministers make the following Regulations in exercise of the powers conferred by sections 75A, 105(7) and 108(1) of the National Health Service (Scotland) Act 1978(a) and all other powers enabling them to do so.

Citation and commencement

1. These Regulations may be cited as the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Amendment (No. 2) Regulations 2008 and come into force on 27th October 2008.

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

2.—(1) The National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003(b) are amended as follows.

(2) In regulation 2 (interpretation)—

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

(a) in regulation 4(2)(f) it has the meaning assigned to it by section 35 of the Jobseekers Act 1995(d);

(a) 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 and Community Care Act 1990 (c.19), Schedule 9, paragraph 19(13), the National Health Service (Primary Care) Act 1997 (c.46), Schedule 2, Part I, paragraphs 32 and 50, the National Health Service Reform (Scotland) Act 2004 (asp 7), Schedule 1, paragraph 1 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, the Health and Social Services and Social Security Adjudications Act 1983 (c.41), Schedule 9, Part I, paragraph 24, and 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).

(b) S.S.I. 2003/460. Amended by S.S.I. 2004/102 and 166, 2005/3 and 179, 2006/142, 183 and 440, 2007/225, 259 and 391 and 2008/27 and 147.

(c) 1992 c.4, to which there are amendments not relevant to these Regulations.

(d) 1995 c.18, to which there are amendments not relevant to these Regulations.

- (b) in regulations 4(2)(j) and 10(2) it has the meaning assigned to it by regulation 2(2) of the Tax Credits (Definition and Calculation of Income) Regulations 2002^(a);
- (c) where a claim has been made for support under Part VI of the Immigration and Asylum Act 1999^(b), 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), (3) and (7) shall be construed accordingly; and
- (d) in regulation 4(2)(o) it has the meaning assigned to it by regulation 2 of the Employment and Support Allowance Regulations 2008^(c);”; and
- (b) after the definition of “income-based jobseeker’s allowance” insert–
 - ““income-related employment and support allowance” means an employment and support allowance, entitlement to which is based on section 1(2)(b) of the Welfare Reform Act 2007^(d)”;
- (3) In regulation 4(2) (description of persons entitled to full remission and payment), after sub-paragraph (m) insert–
 - “(n) a person who is in receipt of income-related employment and support allowance; or
 - (o) a member of the same family as a person who is in receipt of income-related employment and support allowance.”.
- (4) In regulation 9(1) (claims for remission or payment) for “(h) or (i),” substitute “(h), (i) or (m),”.

NICOLA STURGEON
A member of the Scottish Executive

St Andrew’s House,
Edinburgh
27th August 2008

(a) S.I. 2002/2006, to which there are amendments not relevant to these Regulations.
 (b) 1999 c.33. Section 94 was amended by the Nationality, Immigration and Asylum Act 2002 (c.41), Schedule 9.
 (c) S.I. 2008/794.
 (d) 2007 c.5.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003 (“the 2003 Regulations”).

Regulation 2(2)(a) substitutes a new definition of “family” in the 2003 Regulations. In addition to drafting amendments, it inserts a new definition of family at paragraph (d) which relates to the amendment made by regulation 2(3).

Regulation 2(2)(b) inserts a definition of “income-related employment and support allowance” into the 2003 Regulations which relates to the amendment made by regulation 2(3).

Regulation 2(3) amends regulation 4 of the 2003 Regulations to provide that a person who is receiving income-related employment and support allowance (or a member of that person’s family) will be entitled to the full remission of NHS charges and the full payment of NHS travelling expenses without needing to make a claim for such remission or payment.

Regulation 2(4) amends regulation 9 of the 2003 Regulations to provide that a relevant child, defined as a person who is being supported by a local authority under section 29(1) of the Children (Scotland) Act 1995 (c. 36), must make a claim to Scottish Ministers for the full remission of NHS charges and the full payment of NHS travel expenses.

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