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Changes to legislation: National Health Service (Scotland) Act 1978, Cross Heading: Regulations under section 70—charges for dental or optical appliances is up to date with all changes known to be in force on or before 20 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 11

ADDITIONAL PROVISIONS AS TO REGULATIONS FOR THE MAKING AND RECOVERY OF CHARGES

Regulations under section 70—charges for dental or optical appliances

- 2 [F¹(1) The optical appliances referred to in section 70(1) are glasses and contact lenses, and the charge for glasses and contact lenses which that subsection authorises is a charge of such sum as may be determined by or in accordance with directions given by the Secretary of State.]
- (2) Regulations may—
- (a) vary the amount or maximum amount of any charge authorised by section 70(1) for any F² optical appliance, and this power includes power to direct that the charge shall not be payable; or
 - (b) vary the descriptions of appliances for which any such charge is authorised; and regulations made for the purposes of section 70(1) may be made so as to take effect—
 - (i) in the case of appliances supplied under this Act otherwise than under Part II, where the examination or testing of sight (otherwise than under that Part) leading to the supply of those appliances, or the first such examination or testing takes place on or after the date on which the regulations come into force;
 - (ii)
 - F³(iii)
- F⁴(3) No charge shall be made under section 70(1) [F⁵or (1A)] in respect of any appliance supplied otherwise than under Part II to a patient for the time being resident in a hospital.
- (4) No charge shall be made under section 70 [F⁶(1A)] in respect of the supply of a dental appliance if at the relevant time the person for whom that appliance was supplied—
- [F⁷(a) was under [F⁸18] years of age or was under 19 years of age and receiving qualifying full-time education; or]
 - (b) was an expectant mother or had borne a child within the previous 12 months.
- (5)
- F⁹(6) Regulations made with respect to any exemption under sub-paragraph (4) F¹⁰ may provide that it shall be a condition of the exemption that such declaration is made in such form and manner, or such certificate or other evidence is supplied in such form and manner, as may be prescribed.

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- (7) ^{F11}In sub-paragraph (4), “the relevant time” means—
- (a) in relation to a dental appliance supplied otherwise than under Part II, the time of the examination leading to the supply of the appliance, or the first such examination;]
 - (b) in relation to a dental appliance supplied under Part II, the time of the making of the contract or arrangement in pursuance of which the appliance is supplied.
- (8) References in section 70 and in this paragraph to the supply of appliances shall be construed as including references to their replacement ^{F12}and, in the case of dentures, to their being relined or adjusted or having additions made to them] but no charge shall be made under those provisions in respect of the replacement of dentures ^{F13} if the replacement is required in consequence of loss or damage.

Textual Amendments

- F1** Sch. 11 para. 2(1) substituted by [Health and Medicines Act 1988 \(c. 49, SIF 113:2\)](#), s. 25(1), **Sch. 2 para. 15(1)**
- F2** Words repealed by [Health and Medicines Act 1988 \(c. 49, SIF 113:2\)](#), s. 25(2), **Sch. 3**
- F3** Sch. 11 para. 2(2)(ii) repealed by [Health and Medicines Act 1988 \(c. 49, SIF 113:2\)](#), s. 25(2), **Sch. 3**
- F4** Sch. 11 para. 2(2)(iii) repealed by [Health and Social Security Act 1984 \(c. 48, SIF 113:1\)](#), s. 24, **Sch. 8 Pt. I**
- F5** “or (1A)” inserted by [Health and Medicines Act 1988 \(c. 49, SIF 113:2\)](#), s. 25(1), **Sch. 2 para. 15(2)**
- F6** “(1A)” substituted by [Health and Medicines Act 1988 \(c. 49, SIF 113:2\)](#), s. 25(1), **Sch. 2 para. 15(3)**
- F7** Para. 2(4)(a) substituted by [Health Services Act 1980 \(c. 53\)](#), s. 26(2), **Sch. 5 Pt. II para. 6(3)**
- F8** “18” substituted by [Health and Medicines Act 1988 \(c. 49, SIF 113:2\)](#), s. 11(8)
- F9** Sch. 11 para. 2(5) repealed by [Health and Social Security Act 1984 \(c. 48, SIF 113:1\)](#), s. 24, **Sch. 8 Pt. I**
- F10** Words repealed by [Health and Social Security Act 1984 \(c. 48, SIF 113:1\)](#), s. 24, **Sch. 8 Pt. I**
- F11** Sch. 11 para. 2(7)(a) and preceding words substituted by [Health and Social Security Act 1984 \(c. 48, SIF 113:1\)](#), s. 1(7), **Sch. 1 Pt. II para. 6**
- F12** Words inserted by [Health Services Act 1980 \(c. 53\)](#), s. 26(2), **Sch. 5 Pt. II para. 6(5)**
- F13** Words repealed by [Health and Social Security Act 1984 \(c. 48, SIF 113:1\)](#), s. 24, **Sch. 8 Pt. I**

- ^{F14}2A (1) It shall be the duty of the Secretary of State to provide by regulations for payments to be made by him or by a Health Board to meet, or to contribute towards, the cost incurred (whether by way of charge under this Act or otherwise) for the supply of optical appliances for which a prescription has been given in consequence of a testing of sight under this Act—
- (a) for a child;
 - (b) for a person whose resources fall to be treated under the regulations as being less than his requirements; or
 - (c) for a person of such other description as may be prescribed ^{F15}or for which a prescription has been given for a person such as is mentioned in paragraph (a), (b) or (c) above in consequence of a testing of sight (not being a testing of sight under this Act) which took place in prescribed circumstances].
- (2) In sub-paragraph (1) (above) “child” means—
- (a) a person who is under the age of 16 years; or

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- (b) a person who is under the age of 19 years and receiving qualifying full-time education.

[The Secretary of State may by regulations—

- ^{F16}(3) (a) provide for himself or a Health Board to contribute to the cost of a testing of sight which he or the Board accepts as having been incurred by a person whose resources fall to be treated under the regulations as exceeding his requirements but only by an amount calculated under the regulations;
- (b) provide for payments to be made by him or by a Health Board to meet, or to contribute towards, any cost accepted by him or by the Board as having been incurred (whether by way of charge under this Act or otherwise) for the replacement or repair in prescribed circumstances of optical appliances for which a prescription was given in consequence of a testing of the sight of a person of a prescribed description; and
- (c) direct how a person's resources and requirements are to be calculated and, without prejudice to the generality of this sub-paragraph, give any such direction as to how they are to be calculated as may be given by regulations under section 75A(3).

(3A) Descriptions of persons may be prescribed under this paragraph by reference to any criterion and, without prejudice to the generality of this sub-paragraph, by reference to any of the criteria specified in section 75A(2).

(3B) Subsection (4) of section 75A shall have effect in relation to regulations under this paragraph as it has effect in relation to regulations under that section.]

(4) If regulations under this paragraph provide for payments to be made by a Health Board, it shall be the duty of the Secretary of State to pay to the Board, in respect of each financial year, the sum attributable to the Board's disbursements under the regulations.

(5) Sums falling to be paid in pursuance of regulations made under this paragraph shall be payable subject to compliance with such conditions as to records, certificates or otherwise as the Secretary of State may determine.]

Textual Amendments

F14 Sch. 11 para. 2A inserted by Health and Social Security Act 1984 (c. 48, SIF 113:1), s. 1(7), **Sch. 1 Pt. II para. 7**

F15 Words added after paragraph (c) of sub-paragraph (1) by Health and Medicines Act 1988 (c. 49, SIF 113:2), **s. 13(2)**

F16 Paragraphs (3)–(3B) substituted for paragraph (3) by Health and Medicines Act 1988 (c. 49, SIF 113:2), **s. 13(5)**

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