
STATUTORY INSTRUMENTS

1989 No. 392 (S.46)

NATIONAL HEALTH SERVICE, SCOTLAND

The National Health Service (Optical Charges and Payments) (Scotland) Regulations 1989

<i>Made</i>	- - - -	<i>9th March 1989</i>
<i>Laid before Parliament</i>		<i>10th March 1989</i>
<i>Coming into force</i>	- -	<i>1st April 1989</i>

The Secretary of State, in exercise of the powers conferred on him by sections 26, 70(1), 73(a), 74(a), 105 and 108(1) of, and paragraphs 2 and 2A of Schedule 11 to, the National Health Service (Scotland) Act 1978(1) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

PART I
GENERAL

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Optical Charges and Payments) (Scotland) Regulations 1989 and shall come into force on 1st April 1989.

(2) In these Regulations, unless the context otherwise requires—

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

“capital limit” means the amount prescribed for the purposes of section 22(6) of the Social Security Act 1986(2) as it applies to income support;

“child” means a person who is under the age of 16 years;

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- (1) 1978 c. 29; section 26 was amended by the Health and Social Security Act 1984 (c. 48) (“the 1984 Act”), section 1(5) and Schedule 1, Part II paragraphs 1 to 4 and Schedule 8 and by the Health and Medicines Act 1988 (c. 49) (“the 1988 Act”), section 13(4); section 70(1) was amended by the 1988 Act, Schedule 3; section 105, which contains provisions relevant to the making of regulations, amended by the Health Service Act 1980 (c. 53), Schedule 6, paragraph 5; section 108(1) contains definitions of “prescribed” and “regulations” relevant to the exercise of the statutory powers under which these Regulations are made: Paragraph 2(1) of Schedule 11 was substituted by the 1988 Act, Schedule 2, paragraph 15(1); and paragraph 2A of Schedule 11 was inserted by the 1984 Act, Schedule 1, Part II, paragraph 7 and amended by the 1988 Act, section 13(2) and (5).
- (2) 1986 c. 50; regulation 45 of the Income Support (General) Regulations 1987 (S.I. 1987/1967) has prescribed the amount of £6,000 as the capital limit.

“complex appliance” means an optical appliance at least one lens of which—

- (a) has a power in any one meridian of plus or minus 10 or more dioptries, or
- (b) is a lenticular lens;

“eligible person” is to be construed—

- (a) for the purposes of Part III, in accordance with regulation 3(2);
- (b) for the purposes of Parts IV and V, in accordance with regulation 8(2) to (5);

“face value” means, in relation to a voucher on which is marked a letter code specified in column 2 of Schedule 1, the amount specified in relation to it in column 3 of that Schedule, plus the amount of any increase provided for by paragraph 1 of Schedule 3;

“family credit” means family credit under Part II of the Social Security Act 1986;

“income support” means income support under Part II of the Social Security Act 1986 and includes personal expenses addition, special transition addition and transitional addition as defined in regulation 2(1) of the Income Support (Transitional) Regulations 1987(3);

“Health Board” means a Health Board constituted under section 2 of the Act;

“minimum complex appliance payment” means, in relation to an optical appliance, the amount specified as such for the appliance in paragraph 2 of Schedule 3;

“NHS sight test fee” means, in relation to a sight test carried out either by ophthalmic medical practitioners or by opticians, the fee payable, in accordance with the Statement published under regulation 10 of the Ophthalmic Services Regulations, to an optician in respect of a sight test;

“notice of entitlement” means a notice issued under regulation 7 of the Remission Regulations for the purposes of remission of charges under the Act;

“ophthalmic list” means a list, prepared and published pursuant to regulations made under section 26(2) of the Act of medical practitioners and opticians who undertake to provide general ophthalmic services(4);

“Ophthalmic Services Regulations” means the National Health Service (General Ophthalmic Services) (Scotland) Regulations 1986(5);

“optician” means an ophthalmic optician;

“patient” means a person whose sight has been tested whether under the Act or otherwise;

“patient’s contribution” means the amount specified under regulation 7(5) of the Remission Regulations as that for which there is no entitlement under those Regulations to remission of charges;

“redemption value” is to be construed—

- (a) for the purposes of Part III, in accordance with regulation 7;
- (b) for the purposes of Part IV, in accordance with regulation 15;
- (c) for the purposes of Part V, in accordance with regulation 20;

“the Remission Regulations” means the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 1988(6) and a reference to those Regulations is to be construed as a reference to them as they have effect on the making of these Regulations and as amended subsequently;

“replacement” does not include the replacement of an optical appliance rendered unserviceable by fair wear and tear;

(3) S.I. 1987/1969, amended by S.I. 1988/521 and S.I. 1988/670

(4) See S.I. 1986/965, regulation 6.

(5) S.I. 1986/965, amended by S.I. 1988/521 and S.I. 1989/387

(6) S.I. 1988/546, amended by S.I. 1989/393

“responsible Board” means—

- (a) in relation to a voucher completed pursuant to regulation 4, the Health Board for the area in which the testing of sight to which it relates takes place;
- (b) in relation to a voucher issued pursuant to, regulation 9 or regulation 10 or completed pursuant to regulation 17, the Health Board for the area in which the supply, replacement or repair of the optical appliance to which it relates takes or is to take place;
- (c) in relation to a voucher issued pursuant to regulation 11 or completed pursuant to regulation 17, the Health Board which issues or completes it;

“small glasses” means glasses the lens apertures of which have datum centres not more than 56 millimetres apart; and for this purpose “datum centre” is to be construed in accordance with Part I of British Standard 3521: 1962 (Glossary of Terms relating to Ophthalmic Lenses and Spectacles Frames) published by the British Standard Institution as effective on 9th March 1989;

“supplier” includes a person replacing or repairing an optical appliance;

“supply” includes the replacement of an optical appliance rendered unserviceable by fair wear and tear;

“voucher” means—

- (a) in Part III, a sight test claim form supplied by the Secretary of State to those whose names are included in an ophthalmic list;
 - (b) in Part IV, a voucher form supplied—
 - (i) where a testing of sight is carried out otherwise than by a Health Board by the Secretary of State to the person who carries it out or to the Health Board;
 - (ii) where a testing of sight is carried out by a Health Board, by the Health Board;
 - (iii) for the purposes of regulation 10(4), by the Health Board to whom the application is made;
 - (c) in Part V, a voucher form supplied by the Secretary of State;
- for the purposes of enabling a payment to be made under these Regulations.

(3) For the purposes of Schedule 1—

- (a) where an optical appliance has lenses described in different paragraphs in column 1 of Schedule 1, the face value of a voucher for the appliance shall be determined according to whichever lens would provide the greater face value; and
- (b) where an optical appliance has a bifocal lens, the power of the lens shall be determined according to the power of that segment of the lens designed to correct a defect in distant sight; and
- (c) a monocle shall be treated as though it were glasses.

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

- (a) to a numbered regulation, Part or Schedule is to the regulation in, Part of or Schedule to, these Regulations bearing that number;
- (b) in a regulation to a numbered paragraph is to the paragraph in that regulation bearing that number;
- (c) in Schedule 1 to a numbered paragraph is to the paragraph in column 1 in that Schedule bearing that number.

PART II

CHARGES

Charges for glasses and contact lenses

2.—(1) A charge of such sum as may be determined by or in accordance with directions given by the Secretary of State shall be made and recovered in accordance with paragraph (2) in respect of the supply of glasses and contact lenses under the Act.

(2) Where a charge is payable by virtue of paragraph (1) the Health Board, or other person on its behalf, that supplies or is to supply the glasses or contact lenses may—

- (a) on arranging to supply the glasses or contact lenses, make the charge; and
- (b) on supplying the glasses or contact lenses or having them available for supply, recover the charge from the patient (if it has not previously been paid).

PART III

PAYMENTS FOR COST OF SIGHT TESTS

Eligibility—sight tests

3.—(1) A payment shall be made as provided for by this Part of these Regulations to contribute to the cost of a testing of sight which the responsible Board accepts as having been incurred by an eligible person.

(2) An eligible person is a person whose income resources, as calculated in accordance with regulation 6 of, and Schedule 1 to, the Remission Regulations for the purposes of remission of charges under the Act, exceed his requirements as so calculated, but whose patient's contribution does not exceed the NHS sight test fee and whose capital resources as so calculated do not exceed the capital limit.

Completion and use of voucher—sight tests

4.—(1) A person who wishes a payment to be made by virtue of this regulation in his case shall—

- (a) apply to the Secretary of State for a notice of entitlement;
- (b) apply for his sight to be tested by an ophthalmic medical practitioner or optician whose name is included in an ophthalmic list;
- (c) indicate to that practitioner or optician that he is an eligible person at the time of the application; and
- (d) show to him a current notice of entitlement and permit him to copy such details as may be required for the purposes of regulation 5(2)(b)(ii).

(2) The ophthalmic medical practitioner or optician may then duly complete the relevant parts of the voucher with the name and address of the patient and the date of the testing of sight.

(3) The person whose sight is or is to be tested shall sign on the voucher a declaration in writing to the effect that he is an eligible person.

(4) The ophthalmic medical practitioner or optician may use the voucher as being in substitution for payment by the patient of an amount equal to its redemption value, being part of the cost incurred for the testing of sight.

Payments to sight testers

5.—(1) The responsible Board shall, if the conditions specified in paragraph (2) are fulfilled, make a payment of the voucher's redemption value to an ophthalmic medical practitioner or optician who has used a voucher in accordance with regulation 4(4).

(2) The conditions specified in paragraph (1) are that—

- (a) the patient has signed the declaration referred to in regulation 4(3);
- (b) the ophthalmic medical practitioner or optician has—
 - (i) made a claim for a payment on a duly completed voucher to the responsible Board within the period of three months beginning with the date of the testing of sight, and
 - (ii) informed the responsible Board of the amount of the patient's contribution.

Payments to patients in respect of sight tests

6.—(1) A payment may be made under this regulation by the responsible Board to an eligible person who incurs the cost of a testing of sight by an ophthalmic medical practitioner or optician whose name is included in an ophthalmic list, without a voucher being completed in accordance with regulation 4.

(2) A patient who wishes to receive a payment under this regulation shall—

- (a) if he did not apply to the Secretary of State for a notice of entitlement before the date on which his Sight was tested, apply to him for such a notice within the period of 14 days beginning with that date;
- (b) apply to the responsible Board for a payment within the period of three months beginning with that date; and
- (c) produce to the responsible Board within that period—
 - (i) a notice of entitlement effective for a period including the date on which his sight was tested or for a period beginning no later than 14 days after that date, and
 - (ii) the receipt for any fee paid for the testing of sight.

(3) On an application made in accordance with paragraph (2), the responsible Board shall, if satisfied as to the cost incurred for the testing of sight, make a payment to the patient of an amount equal to the redemption value of the voucher which could have been completed under regulation 4 if the patient had satisfied the requirements of regulation 4(1).

Redemption value—voucher for sight tests

7. For the purposes of this Part of these Regulations the redemption value of a voucher is the amount, if any, by which the patient's contribution falls short of the lesser of—

- (a) the NHS sight test fee; or
- (b) the full cost which would have been incurred by the patient for the sight test but for these Regulations.

PART IV

PAYMENTS FOR COST OF SUPPLY OF OPTICAL APPLIANCES

Eligibility—supply of optical appliances

8.—(1) A payment shall be made as provided for by this Part of these Regulations to meet, or to contribute towards, the cost incurred (whether by way of charge under the Act or otherwise) for the supply of an optical appliance for which a prescription has been given in consequence of a testing of sight of an eligible person—

- (a) which took place under the Act; or
- (b) which took place otherwise than under the Act and within the Health Board area in which the person whose sight was tested normally resides.

(2) An eligible person is a person who at the time of the supply of the optical appliance is any of the following:—

- (a) a child;
 - (b) a person under the age of 19 years and receiving qualifying full-time education within the meaning of paragraph 7 of Schedule 12 to the Act(7);
 - (c) a person whose resources are treated, in accordance with paragraph (3), as being less than his requirements;
 - (d) a person whose income resources, as calculated in accordance with regulation 6 of, and Schedule 1 to, the Remission Regulations for the purposes of remission of charges under the Act, are equal to or exceed his requirements as so calculated but whose patient's contribution is nil or is less than the face value of a voucher issued to him under this Part of these Regulations and whose capital resources do not exceed the capital limit;
 - (e) a person to whom a prescription is issued for a complex appliance.
- (3) A person's resources shall be treated as being less than his requirements if—
- (a) he is in receipt of income support;
 - (b) he is a member of the same family as a person who is in receipt of income support;
 - (c) he is in receipt of family credit;
 - (d) he is a member of the same family as a person who is in receipt of family credit;
 - (e) his income resources as calculated in accordance with regulation 6 of, and Schedule 1 to, the Remission Regulations for the purposes of remission of charges under the Act, are less than his requirements as so calculated and his capital resources as so calculated do not exceed the capital limit; or
 - (f) he is a member of the same family as a person described in paragraph (e) of this paragraph.

(4) In paragraph (3)(b) and (f) 'family' has the meaning assigned to it by section 20(11) of the Social Security Act 1986 as it applies to income support(8) and in paragraph 2(d) it has the meaning assigned to it by virtue of section 20(11) of that Act as it applies to family credit(9).

(5) For the purposes of regulation 11 and other provisions of this Part of these Regulations as they apply to payments where the testing of sight was by or on behalf of a Health Board, a person is also an eligible person if, because of the frequency with which the condition of his eyes changes, he is considered by the Health Board to be non-tolerant of his existing optical appliance.

(7) Paragraph 7 was substituted by the Health Services Act 1980 (c. 53). Schedule 5. Part II, paragraph 8.

(8) 1986 c. 50; see S.I. 1987/1967, regulations 14 to 16, as amended by S.I. 1988/663 and 1988/1445

(9) S.I. 1987/1973, regulations 6 to 9, as amended by S.I. 1988/660

Issue of vouchers by ophthalmic medical practitioners and opticians

9.—(1) A person making an application for a testing of sight pursuant to regulation 14 of the Ophthalmic Services Regulations who considers that he may be an eligible person and wishes a payment to be made under these Regulations in his case shall indicate to the ophthalmic medical practitioner or optician to whom the application is made that he may be an eligible person.

(2) An ophthalmic medical practitioner or optician who, following a testing of sight under the Ophthalmic Services Regulations, issues a prescription for an optical appliance to a patient—

- (a) who has indicated that he may be an eligible person; or
- (b) who (whether or not he has so indicated) is issued with a prescription for a complex appliance,

shall, in the circumstances described in paragraph (4) but subject to paragraph (5), issue to the patient a voucher relating to the optical appliance prescribed on the same occasion as he issues the prescription in accordance with paragraph 10(3) of Schedule 1 to the Ophthalmic Services Regulations.

(3) The ophthalmic medical practitioner or optician issuing the voucher shall sign it and shall—

- (a) mark on it the letter code specified in column 2 of Schedule 1 which relates to the type of optical appliance prescribed as set out in column 1 of that Schedule;
- (b) duly complete the relevant parts of the voucher with the name and address of the patient, the patient's age if under 19, particulars of the prescription issued to the patient, the date on which the patient's sight was tested and the date of issue of the voucher.

(4) The circumstances referred to in paragraph (2) are where the ophthalmic medical practitioner or optician, having consulted any records which he has relating to the patient and made such enquiry of the patient as he considers relevant, is satisfied that—

- (a) the patient requires an optical appliance for the first time or an optical appliance pursuant to a prescription the particulars of which differ from those relating to his existing appliance; or
- (b) the patient requires an optical appliance because his existing optical appliance has been rendered unserviceable by fair wear and tear.

(5) Where a patient requires an optical appliance pursuant to a prescription the particulars of which differ from those relating to his existing appliance only because the patient is non-tolerant of that appliance, and has been so since it was supplied to him, no voucher shall be issued unless the Health Board responsible for the arrangements for the sight test, being satisfied that the prescription for that existing appliance was clinically correct, has authorised the issue of a voucher.

(6) Unless regulation 10(4) applies, not more than one voucher shall be issued to a patient in respect of any one optical appliance prescribed.

(7) A person making an application to an ophthalmic medical practitioner or optician for a testing of sight otherwise than under general ophthalmic services who considers that he may be an eligible person by virtue of regulation 8(2)(d) and wishes a payment to be made under these Regulations in his case shall indicate to the ophthalmic medical practitioner or optician to whom the application is made that he may be an eligible person; and that practitioner or optician may, if he issues a prescription for an optical appliance, issue a voucher relating to it in accordance with paragraphs (2) to (6) as though the testing of sight were carried out and the prescription was issued under general ophthalmic services.

Issue of vouchers by Health Boards

10.—(1) Subject to paragraph (2), a patient whose sight has been tested by an ophthalmic medical practitioner or optician otherwise than under the Act who considers that he may be an eligible person

by virtue of regulation 8(2)(d) and wishes a payment to be made under these Regulations in his case may apply in writing for a voucher to the Health Board for the area in which his sight was tested.

(2) An application made under paragraph (1) shall—

- (a) state that the patient may be an eligible person by virtue of regulation 8(2)(d);
- (b) be accompanied by the prescription issued to the patient or a copy of it; and
- (c) be made within the period of one month beginning with the date of the testing of sight but before the patient arranges for the supply of his optical appliance.

(3) On an application made in accordance with paragraph (2) the responsible Board shall issue a voucher relating to the optical appliance prescribed and shall—

- (a) mark on it the letter code specified in column 2 of Schedule 1 which relates to the type of optical appliance prescribed as set out in column 1 of that Schedule;
- (b) duly complete the relevant parts of the voucher with the name and address of the patient, the patient's age if under 19, particulars of the prescription issued to the patient, the date on which the patient's sight was tested and the date of issue of the voucher; and
- (c) return the patient any prescription that he may have submitted.

(4) Where, on an application by a patient within six months of a voucher having been issued to him under regulation 9(2) or (7), a Health Board is satisfied, having made such enquiries as it considers relevant, that the voucher has been lost or destroyed without having been presented to a supplier of optical appliances, it may issue to the patient a replacement voucher completed in accordance with regulation 9(3)(a) and (b), but with the date of issue of the voucher being that on which the replacement is issued.

Issue of vouchers by Health Boards in connection with the hospital eye service

11.—(1) A person whose sight is tested by or on behalf of a Health Board who considers that he may be an eligible person and wishes a payment to be made under these Regulations in his case shall indicate to that Health Board that he may be an eligible person.

(2) Where, following a testing of sight, a prescription for an optical appliance is issued to a patient—

- (a) who has indicated that he may be an eligible person;
- (b) who (whether or not he has so indicated) is issued with a prescription for a complex appliance; or
- (c) who is an eligible person by virtue of regulation 8(5),

the Health Board by or on behalf of which the patient's sight was tested shall issue to the patient a voucher relating to the optical appliance prescribed.

(3) The Health Board issuing the voucher shall—

- (a) mark on it the letter code specified in column 2 of Schedule 1 which relates to the type of optical appliance prescribed as set out in column 1 of that Schedule;
- (b) duly complete the relevant parts of the voucher with the name and address of the patient, the patient's age if under 19, particulars of the prescription issued to the patient, the date on which the patient's sight was tested and the date of issue of the voucher.

Use of vouchers for the supply of optical appliances

12.—(1) Subject to paragraphs (4) and (5), a patient to whom a voucher, duly completed in accordance with regulation 9,10 or 11, has been issued may present it to a supplier who supplies

or is to supply him with an optical appliance, provided that the arrangements for supply are made within six months of the date on which the voucher was issued.

(2) A supplier may accept the voucher in substitution for payment by the patient of an amount equal to its redemption value, being the whole or part of the cost incurred for the supply of an optical appliance.

(3) A voucher relating to glasses may be accepted in connection with the supply of contact lenses.

(4) Before presenting the voucher to the supplier the patient shall sign on the voucher—

- (a) a declaration in writing to the effect that he is an eligible person indicating the grounds of his eligibility;
- (b) an undertaking in writing to the effect that, if he is unable to show that he is an eligible person, he will pay to the responsible Board an amount equal to the voucher's redemption value.

(5) A patient who is an eligible person only by virtue of regulation 8(2)(d) or by virtue of his resources being treated in accordance with regulation 8(3)(e) or (f) as being less than his requirements shall—

- (a) before presenting the voucher to the supplier, apply to the Secretary of State for a notice of entitlement; and
- (b) on the same occasion as he presents the supplier with a voucher in accordance with paragraph (1), show a current notice of entitlement to the supplier and permit him to copy such details as may be required for the purposes of regulation 13(2)(c)(iii).

Payments to suppliers

13.—(1) The Health Board shall, if the conditions specified in paragraph (2) are fulfilled, make a payment of a voucher's redemption value to a supplier who has accepted the voucher from a patient in accordance with regulation 12.

(2) The conditions referred to in paragraph (1) are that—

- (a) the patient has signed the declaration and undertaking referred to in regulation 12(4) and acknowledged receipt on the voucher of the optical appliance supplied to him;
- (b) the optical appliance is not sold or supplied in contravention of section 21(1) of the Opticians Act 1958⁽¹⁰⁾;
- (c) the supplier has—
 - (i) made and kept a written record of the supply and issued to the patient a receipt for any money received from the patient,
 - (ii) made a claim for a payment on a duly completed voucher to the responsible Board, within the period of 3 months beginning with the date of supply of the optical appliance,
 - (iii) where the patient has shown a notice of entitlement to him, informed the responsible Board of the amount of the patient's contribution, if any, and
 - (iv) where the claim relates to a voucher the value of which is increased in accordance with paragraph 1(1)(e) of Schedule 3, certified that the glasses supplied were small glasses.

Payments to patients in Health Board cases

14.—(1) A payment may be made under this regulation to a patient who

⁽¹⁰⁾ 1958 c. 32; section 21 was amended by the 1984 Act. section 1(1) and by the 1988 Act. section 13(6) and (7).

- (a) has been issued by a Health Board with a voucher only because he may be an eligible person by virtue of regulation 8(2)(d), or by virtue of his resources being treated in accordance with regulation 8(3)(e) or (f) as being less than his requirements; and
 - (b) incurs cost for the supply of an optical appliance without first having obtained a notice of entitlement and without presenting his voucher to a supplier.
- (2) A patient who wishes a payment to be made to him under this regulation shall—
- (a) apply to the Secretary of State for a notice of entitlement;
 - (b) sign the declaration and undertaking referred to in regulation 12(4);
 - (c) within the period of three months beginning with the date on which he was supplied with the optical appliance, apply to the responsible Board for a payment and send to that Board—
 - (i) the voucher issued to him,
 - (ii) a statement of the amount of his patient's contribution, if any, and
 - (iii) evidence of the cost incurred for the supply of the optical appliance.
- (3) On an application made in accordance with paragraph (2), the responsible Board shall, if satisfied—
- (a) that the patient was issued with a notice of entitlement;
 - (b) as to the amount of the patient's contribution; and
 - (c) as to the cost incurred for the supply of the optical appliance, make a payment to the patient of the voucher's redemption value.

Redemption value of voucher—supply of optical appliances

15.—(1) Where an optical appliance was supplied otherwise than under the Act the redemption value of a voucher is, subject to paragraphs (3) to (5), the lesser of—

- (a) the full cost which would have been payable by the patient for the supply but for these Regulations;
- (b) the face value of the voucher.

(2) Where an optical appliance was supplied under the Act, the redemption value of a voucher is, subject to paragraphs (3) to (5), the lesser of—

- (a) the amount of the charge under section 70(1) of the Act which would have been payable by the patient for the supply but for these Regulations;
- (b) the face value of the voucher.

(3) In relation to payments to be made because of a person's eligibility by virtue of regulation 8(2)(d), the amounts taken for the purposes of paragraph (1)(a) and (b) or paragraph (2)(a) and (b) shall, subject to paragraph (4), be reduced—

- (a) where no voucher was completed in accordance with Part III in respect of the testing of the patient's sight, by the amount of the patient's contribution;
- (b) where such a voucher was completed and for the purposes of regulation 7 the patient's contribution exceeded the lesser of the amounts specified in regulation 7(a) and (b), by the amount of the excess.

(4) If a reduction made under paragraph (3) in the case of a patient to whom a prescription was issued for a complex appliance would render the redemption value of the voucher less than the minimum complex appliance payment, that value shall be the minimum complex appliance payment.

(5) Where the patient was an eligible person only because a prescription was issued to him for a complex appliance, the redemption value of a voucher shall be the minimum complex appliance payment, except that where—

- (a) the appliance was supplied under the Act; and
- (b) in accordance with directions given pursuant to regulation 2(1), the amount of a charge made for the supply under section 70(1) of the Act would, but for any maximum charge specified in the directions, have exceeded by any amount the charge actually made,

the redemption value shall be reduced by the amount of the excess.

PART V

PAYMENTS FOR COST OF REPLACEMENT OR REPAIR OF OPTICAL APPLIANCES

Eligibility—replacement or repair

16.—(1) A payment shall be made as provided for by this Part of these Regulations to meet, or contribute towards, any cost accepted by the responsible Board as having been incurred (whether by way of charge under the Act or otherwise) for the replacement or repair of an optical appliance for which a prescription is given in consequence of a testing of sight of—

- (a) a child where the appliance needs replacement or repair in consequence of loss or damage;
- (b) a person of any description specified in regulation 8(2)(c), (d) or (e) suffering from illness, where the appliance needs replacement or repair in consequence of its loss or damage and the responsible Board is satisfied, after making such enquiries as it considers relevant, that the loss or damage would not have occurred but for that illness.

(2) No payment shall be made by virtue of paragraph (1)(a) or (b) unless the responsible Board is satisfied, after making such enquiries as it considers relevant, that the full cost of replacement or repair cannot be met under the terms of any warranty, insurance or other arrangement made with the supplier or manufacturer of such an appliance.

Completion of vouchers

17.—(1) A patient who considers that a payment should be made under this Part of these Regulations in his case in respect of the replacement or repair of his optical appliance may indicate to the supplier that he wishes such a payment may be made.

- (2) In the case of a replacement the supplier may—
 - (a) mark on a voucher the letter code specified in column 2 of Schedule 1 which relates to the type of optical appliance to be replaced as set out in column 1 of that Schedule;
 - (b) duly complete the relevant parts of the voucher with the name and address of the patient, the patient's age if under 16 and the date of issue of the voucher.
- (3) In the case of a repair the supplier may—
 - (a) mark on a voucher the letter code specified in column 2 of Schedule 1 which relates to the type of optical appliance to be repaired as set out in column 1 of that Schedule;
 - (b) indicate on the voucher the nature of the repair of the appliance to be undertaken and, in particular, whether it comprises—
 - (i) the replacement or repair of one or more lenses, and, if so, of how many,

- (ii) the repair of a frame and, if so, whether it is of the whole frame, the front of a frame or one or both sides of a frame;
 - (c) duly complete the relevant parts of the voucher with the name and address of the patient, the patient's age if under 16 and the date of issue of the voucher.
- (4) The patient shall sign on the voucher—
- (a) a declaration in writing to the effect that he is an eligible person, indicating the grounds of his eligibility;
 - (b) a declaration in writing to the effect that the optical appliance cannot be replaced or repaired free of charge under the terms of any warranty, insurance or other arrangement made with its supplier or manufacturer; and
 - (c) an undertaking in writing to the effect that, if he is unable to show that he is an eligible person, he will pay to the responsible Board an amount equal to the voucher's redemption value.
- (5) A patient who is an eligible person only by virtue of regulation 8(2)(d) or only by virtue of his resources being treated in accordance with regulation 8(3)(e) or (f) as being less than his requirements shall show a current notice of entitlement to the supplier and permit him to copy such details as may be required for the purposes of regulation 19(2)(b)(iv).
- (6) In a case to which regulation 16(1)(b) applies, a supplier intending to use the voucher under regulation 18 shall first submit it to the responsible Board so that it may be satisfied as to the circumstances in which the loss or damage occurred and give its approval to the use of the voucher.

Use of vouchers for replacement or repair

18. The supplier may use the voucher as being in substitution for payment by the patient of an amount equal to its redemption value, being the whole or part of the cost incurred for the replacement or repair.

Payments to suppliers—replacement or repair

19.—(1) The responsible Board shall, if the conditions specified in paragraph (2) are fulfilled, make a payment of a voucher's redemption value to a supplier who has used a voucher in accordance with regulation 18.

- (2) The conditions referred to in paragraph (1) are that—
- (a) the patient has signed the declarations and undertaking referred to in regulation 17(4) and acknowledged on the voucher that the optical appliance has been replaced or repaired; and
 - (b) the supplier has—
 - (i) made and kept a written record of the replacement or repair and issued to the patient a receipt for any money received from the patient;
 - (ii) obtained any prior approval required by regulation 17(6);
 - (iii) made a claim for payment on a duly completed voucher to the responsible Board within the period of three months beginning with the date of the replacement or repair of the optical appliance; and
 - (iv) where the person has shown a notice of entitlement to him informed the responsible Board of the amount of the patient's contribution, if any.

Redemption value of voucher—replacement or repair

20.—(1) Subject to paragraph (4), the redemption value of a voucher shall, in the case of a replacement, be the lesser of—

- (a) the full cost which would have been payable by the patient for the replacement but for these Regulations;
- (b) the face value of the voucher or, in the case of the replacement of one only of a pair of contact lenses, £26.50.

(2) Subject to paragraphs (3) and (4), the redemption value of a voucher shall, in the case of the repair of an appliance be the lesser of—

- (a) the full cost which would have been payable by the patient for the repair but for these Regulations;
- (b) the amount specified in column 2 of Schedule 2 which relates to the type of optical appliance repaired (identified in that column by reference to the relevant letter code as specified in Schedule 1) and to the nature of the repair specified in column 1 of Schedule 2, together with any increase provided for by Schedule 3.

(3) Where more than one repair is made to an appliance the amount taken for the purposes of paragraph (2)(b) as being specified in Schedule 2 shall be the aggregate of the relevant amounts ascertained in accordance with Schedule 2, except—

- (i) that the element of the value of a voucher which relates to the repair of a frame shall not exceed £7.40; and
- (ii) the maximum supplement payable under paragraph 1(1)(e) or (g) of Schedule 3 in respect of the repair of any one appliance shall not exceed £33.00.

(4) In the case of a person who was eligible for a payment to be made in his case only by virtue of regulation 8(2)(d), the amounts taken for the purpose of paragraphs (1)(a) and (b) and (2)(a) and (b) shall be reduced by the patient's contribution.

PART VI

MISCELLANEOUS

Amounts wrongly paid

21.—(1) Where a person who is not an eligible person declares on a voucher that he is an eligible person and in consequence the responsible Board makes a payment under these Regulations, the person who makes the declaration shall repay the amount of that payment to the responsible Board.

(2) Where a supplier makes a claim for payment to the responsible Board, representing that the conditions specified in regulation 5(2), 13(2) or 19(2) are fulfilled, but those conditions are not fulfilled and the Board makes a payment to the supplier under these Regulations, it may recover the amount of that payment from the supplier.

Signatures

22.—(1) A signature required by these Regulations may be given—

- (a) on behalf of a child by either parent or, in the absence of both parents, the guardian or other adult person who has the care of the child;
- (b) on behalf of any other person who is incapable of giving the signature, by—
 - (i) an adult relative,

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- (ii) any other adult who has the care of that person, or
- (iii) any other adult competent so to sign in accordance with any rule of law;
- (c) on behalf of any person under 18 years of age—
 - (i) in the care of a local authority under Part II of the Social Work (Scotland) Act 1968⁽¹¹⁾ or under the provisions of that Part as applied by section 44(5) of that Act⁽¹²⁾, by a person duly authorised by that authority;
 - (ii) in the care of a voluntary organisation, by that organisation or a person duly authorised by them.

Revocations

23. The Regulations specified in column (1) of Schedule 4 are revoked.

St Andrew's House,
Edinburgh
9th March 1989

Michael B Forsyth
Parliamentary Under Secretary of State, Scottish
Office

⁽¹¹⁾ 1968 c. 49

⁽¹²⁾ Section 44(5) was amended by The Children Act 1975 (c. 72), Schedule 3, paragraph 56 and by The Law Reform (Miscellaneous Provisions) (Scotland) Act 1985 (c. 73), section 28.

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SCHEDULE 1

Regulations 1(2), and (3), 9(3)(a), 10(3)(a), 11(3)(a), 17(2)(a) and (3)(a)

VOUCHER LETTER CODES AND FACE VALUES

Column 1 Type of optical appliance	Column 2 Letter code	Column 3 Face value of voucher
<p>1. Glasses with single vision lenses of a power (plus or minus) not exceeding—</p> <p>(a) (a) as respects any spherical power, 6 dioptries;</p> <p>(b) as respects any cylindrical power, 2 dioptries.</p>	A	17.00
<p>2. Glasses with single vision lenses not falling within paragraph 1 or 3.</p>	B	28.00
<p>3. Glasses with single vision lenses—</p> <p>(a) (a) of a spherical power (plus or minus) exceeding 20 dioptries;</p> <p>(b) of a spherical power (plus or minus) exceeding 10 dioptries with any cylindrical power;</p> <p>(c) of a cylindrical power (plus or minus) exceeding 6 dioptries; or</p> <p>(d) in lenticular form.</p>	C	46.00
<p>4. Glasses with bifocal lenses of a power (plus or minus) not exceeding—</p> <p>(a) (a) as respects any spherical power, 6 dioptries;</p> <p>(b) as respects any cylindrical power, 2 dioptries.</p>	D	32.75
<p>5. Glasses with bifocal lenses not falling within paragraph 4 or 6.</p>	E	58.00

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Column 1 Type of optical appliance	Column 2 Letter code	Column 3 Face value of voucher
<p>6. Glasses with prism segment bifocal lenses or glasses with bifocal lenses—</p> <p>(a) (a) of a spherical power (plus or minus) exceeding 20 dioptries;</p> <p>(b) of a spherical power (plus or minus) exceeding 10 dioptries with any cylindrical power;</p> <p>(c) of a cylindrical power (plus or minus) exceeding 6 dioptries; and</p> <p>(d) in lenticular form.</p>	F	98.00
<p>7. Glasses not falling within any of paragraphs 1 to 6 for which a prescription is given in consequence of a testing of sight by a Health Board as part of the provision of ophthalmic services (other than general ophthalmic services).</p>	G	98.00
<p>8. Contact lenses for which a prescription is given in consequence of a testing of sight by a Health Board as part of the provision of ophthalmic services (other than general ophthalmic services).</p>	H	26.50 per lens

SCHEDULE 2

Regulation 20(2) and (3)

VOUCHER VALUES—REPAIR

Column 1 Nature of repair to appliance	Column 2 Letter codes—values					
	A	B	C	D	E	F & G
	£	£	£	£	£	£

Column 1 Nature of repair to appliance	Column 2 Letter codes— values					
Repair or replacement of one lens	4.80	10.30	19.30	12.70	25.30	45.30
Repair or replacement of two lenses	9.60	20.60	38.60	25.35	50.60	90.60
Repair or replacement of—						
the front of a frame	6.60	6.60	6.60	6.60	6.60	6.60
a side of a frame	3.60	3.60	3.60	3.60	3.60	3.60
the whole frame	7.40	7.40	7.40	7.40	7.40	7.40
Maximum	17.00	28.00	46.00	32.75	58.00	98.00

SCHEDULE 3

Regulations 1(2), 13(2)(c)(iv) and 20(2)
and (3)

PRISMS, TINTS, PHOTOCROMIC LENSES, SMALL GLASSES
AND SPECIAL FRAMES AND COMPLEX APPLIANCES

1.—(1) The amounts in column 3 of Schedule 1 and column 2 of Schedule 2 and in paragraph 2(a) and (b) of this Schedule shall be increased as follows:

- (a) by £3.75 in respect of each single vision lens containing a necessary prism;
- (b) by £4.75 in respect of each other lens containing a necessary prism;
- (c) by £1.90 in respect of each necessary single vision tinted lens;
- (d) by £2.40 in respect of each necessary other tinted lens;
- (e) in respect of small glasses: by £33.00 in the case of supply or replacement of the glasses or repair of the whole frame; by £29.35 in the case of repair of the front of the frame; and by £15.85 in the case of repair of a side of a frame;
- (f) where the voucher is issued by a Health Board (in connection with the hospital eye service) by £1.90 in respect of each necessary single vision photochromic lens and by £2.40 in respect of each necessary other photochromic lens;
- (g) where the voucher is issued by a Health Board (in connection with the hospital eye service), in respect of glasses the frame of which is certified by the Health Board as being required to be specially manufactured on account of the patient's facial characteristics, by £33.00 in the case of supply or replacement of the glasses or repair of the whole frame, by £29.35

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in the case of repair of the front of the frame and by £15.85 in the case of repair of a side of a frame.

(2) The increases provided for by sub-paragraph (1)(e), (f) and (g) of this paragraph do not apply in the case of a voucher relating to glasses if it is accepted in connection with the supply of contact lenses.

(3) In sub-paragraph (1) of this paragraph 'necessary' in relation to a prism or a tinted or photochromic lens means that the prism, tint or photochromic quality has been prescribed on the basis of clinical need.

(4) Where the face value of a voucher is increased in accordance with sub-paragraph (1)(g) of this paragraph, it may not be further increased in accordance with sub-paragraph (1)(e) of this paragraph.

2. The minimum complex appliance payment is—

(a) for a complex appliance with single vision lenses only, £3.25;

(b) for any other complex appliance,

£18.00; plus, in each case, the amount of any increase provided for by paragraph 1 of this Schedule.

SCHEDULE 4

Regulation 23

REGULATIONS REVOKED

Column 1 Regulations revoked	Column 2 References
The National Health Service (Payments for Optical Appliances) (Scotland) Regulation 1986	S.I. 1986/966
The National Health Service (Payments for Optical Appliances) (Scotland) Amendment Regulations 1986	S.I. 1986/1192
The National Health Service (Payments for Optical Appliances) (Scotland) Amendment Regulations 1988	S.I. 1988/463
The National Health Service (Payments for Optical Appliances) (Scotland) Amendment (No. 2) Regulations 1988	S.I. 1988/545
The National Health Service (Payments for Optical Appliances) (Scotland) Amendment (No. 3) Regulations 1988	S.I. 1988/1425
The National Health Service (Payments for Optical Appliances) (Scotland) Amendment (No. 4) Regulations 1988	S.I. 1988/1950

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations introduce a scheme for a contribution to be made by Health Boards (“Boards”) towards the cost incurred by certain people (specified in regulation 3) for a sight test (Part III) and a scheme for payments to be made by Boards in respect of the cost incurred by certain categories of persons (specified in regulation 16) for the replacement or repair of optical appliances (Part V). In addition the Regulations retain with modifications the scheme (introduced in 1986) for payments to be made by Boards in respect of the cost incurred by certain categories of persons (specified in regulation 8) for the supply of optical appliances (Part IV). Glasses and contact lenses will continue to be supplied by Boards as part of the hospital eye service and regulation 2 enables a charge to be made for those supplies (Part II).

Under Part III of these Regulations persons who are eligible for a contribution to be made towards the cost of their sight test are those who are entitled to partial remission of National Health Service (NHS) charges if the amount of the patient’s contribution does not exceed the standard amount payable to opticians for sight tests under the NHS (sight test fee) and whose sight is tested by an ophthalmic medical practitioner or optician whose name is included in the ophthalmic list. The amount of the payment varies according to the patient’s means but cannot exceed the sight test fee.

A person is eligible under Part IV of these Regulations if his sight is tested under the NHS or (in limited circumstances—regulation 8(1)(b)) if it is tested privately. A voucher is to be issued to a patient if he appears eligible for a payment under the Regulations. The voucher is required to bear a letter code which varies according to the type of appliance prescribed and indicates a monetary value (set out in Schedule 1). The patient may use the voucher towards the cost incurred by him for the supply of the optical appliance prescribed (regulation 12) and the supplier may, on submitting the voucher, claim a payment from the Health Board (regulation 13). The amount of that payment will vary according to whether or not the patient is required to make a contribution (which has the effect of reducing the voucher’s value) and whether or not the optical appliance is a complex appliance (regulation 15). In some hospital eye service cases the payment may be made direct to the patient if he has been supplied with his optical appliance without using his voucher (regulation 14).

Voucher values for the supply of appliance are increased by between 41 and 10 per cent and the voucher value for the supply of contact lenses is unchanged.

Part V of these Regulations makes provision for payments to be made for the cost of replacement and repair of optical appliances. Those eligible are children under 16 (where the appliance is lost or damaged) and others who are entitled to full or partial remission of NHS charges or need to wear complex appliances (where the appliance is lost or damaged as a result of illness) (regulation 16). In the case of a replacement, the voucher is completed in a similar way to a voucher for the supply of an optical appliance. In the case of repair the voucher must, as well as bearing a letter code, specify the nature of the repair to be carried out (the monetary value given to which is set out in Schedule 2 and is relevant to the amount of any payment made). In the case of replacements and repairs the amount of the payment varies according to the patient’s means, so that if the patient is assessed as having to make a contribution the amount of any payment made is reduced (regulation 20).

Part VI deals with miscellaneous matters and contains provision for repayment of amounts wrongly paid (regulation 21) and for signatures by those under disability (regulation 22).

The instruments which these Regulations replace are revoked by regulation 23 and Schedule 4.

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British Standard 3521:1962, referred to in regulation 1(2) of these Regulations, may be obtained from any of the sales outlets operated by the British Standards Institution or direct by post from the Institution at Linford Wood, Milton Keynes, MK14 6LE.