
STATUTORY INSTRUMENTS

1991 No. 575 (S.60)

NATIONAL HEALTH SERVICE, SCOTLAND

The National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Amendment Regulations 1991

<i>Made</i>	- - - -	<i>8th March 1991</i>
<i>Laid before Parliament</i>		<i>12th March 1991</i>
<i>Coming into force</i>	- -	<i>1st April 1991</i>

The Secretary of State, in exercise of the powers conferred on him by sections 75A, 105(7) and 108(1) of the National Health Service (Scotland) Act 1978(1) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Amendment Regulations 1991 and shall come into force on 1st April 1991.

(2) In these Regulations “the Act” means the National Health Service (Scotland) Act 1978 and “the principal Regulations” means the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 1988(2).

Amendment to regulation 2 (interpretation) of the principal Regulations

2. In paragraph (1) of regulation 2 (interpretation) of the principal Regulations after the definition of “income support” there shall be inserted the following definitions:—

““NHS contract” has the meaning indicated by section 17A(3) of the Act(3);

“NHS trust” has the meaning indicated by section 12A(1) of the Act(4);”.

(1) 1978 c. 29; Section 75A was inserted by the Social Security Act 1988 (c. 7), section 14(2), and amended by the National Health Service and Community Care Act 1990 (c. 19) (“the 1990 Act”), Schedule 9, paragraph 19(13); section 105(7) which was amended by the Health Services Act 1980 (c. 53), Schedule 6, paragraph 5 and Schedule 7 and by the Health and Social Services and Social Security Adjudications Act 1983 (c. 41), Schedule 9, paragraph 24, contains provisions relevant to the making of regulations; section 108(1) contains definitions of “prescribed” and “regulations” relevant to the exercise of the statutory powers under which these Regulations are made.

(2) S.I. 1988/546, amended by S.I. 1989/393 and 616 and 1990/551 and 1665.

(3) Section 17A was inserted by the 1990 Act, section 30.

(4) Section 12A was inserted by the 1990 Act, section 31.

Amendments to regulations 3 and 5 of the principal Regulations

3.—(1) In paragraph (1) of regulation 3 (entitlement to full remission and payment) of the principal Regulations after the word “payment” there shall be inserted the words “, in accordance with regulation 5A,”.

(2) In paragraph (1) of regulation 5 (persons entitled to remission in part or payment in part) of the principal Regulations after the word “payment” there shall be inserted the words “, in accordance with regulation 5A,”.

Insertion of new regulation 5A (payment of travelling expenses)

4. After regulation 5 of the principal Regulations there shall be inserted the following new regulation:—

“Payment of travelling expenses

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

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

Amendments to regulation 8 (repayment) of the principal Regulations

5. In regulation 8 (repayment) of the principal Regulations—

- (a) in paragraph (2) after the word “expenses” there shall be inserted the words “(or within such further period as the Secretary of State may for good cause allow);”;
- (b) for paragraph (4) there shall be substituted the following new paragraphs:—

“(4) Where the Secretary of State is satisfied that a claimant is entitled to any repayment under paragraph (1) he shall—

- (a) in the case of a repayment to be made—
 - (i) in respect of a relevant charge made by an NHS trust, other than a charge for drugs or for appliances mentioned in sub-paragraphs (a), (c) or (d) of regulation 5(1) of the National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations 1989(5);
 - (ii) in respect of relevant travelling expenses incurred by a person in attending a hospital managed by an NHS trust,

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

- (b) 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.

(5) On receipt of an authorisation given under paragraph (4)(a) the NHS trust shall pay the amount in question to the claimant.”.

Insertion of new regulation 8A (reimbursement of payments made in respect of relevant travelling expenses)

6. After regulation 8 of the principal Regulations there shall be inserted the following new regulation:—

“Reimbursement of payments made in respect of relevant travelling expenses

8A.—(1) Where a Health Board or an NHS trust (“the provider”) makes a payment under regulation 3(1) or 5(1), or a repayment under regulation 8(4)(b) or (5), in respect of relevant travelling expenses incurred or to be incurred by a person who is receiving services from the provider under the terms of an NHS contract the amount of the payment or repayment in question shall be reimbursed to the provider by the Health Board which has responsibility for the health care of that person.

(2) In this regulation the expression “Health Board which has responsibility for the health care of that person” has the meaning indicated by article 2 of the Functions of Health Boards (Scotland) Order 1991(6).”.

Amendments to Schedule 1 of the principal Regulations

7. In Table B in Part II of Schedule 1 (calculation of requirements), in the entry in column (2) corresponding to the entry “Schedule 3”(7) in column (1), for the words ““paragraph (1)(c) to (h) and (k)”” in the item relating to paragraph 9 there shall be added the words “; and as if paragraph 9(2)(c) were omitted”.

St. Andrews House,
Edinburgh
8th March 1991

Michael B. Forsyth
Minister of State, Scottish Office

(6) S.I. 1991/570.

(7) See S.I. 1987/1967; paragraph 9 of Schedule 3 was amended by S.I. 1990/547 and 1776.

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 1988. The amendments are made principally in consequence of the introduction of NHS contracts and of the provision of NHS services by NHS trusts from 1st April 1991 under provisions introduced by the National Health Service and Community Care Act 1990.

Amendments are made to regulations 3, 5 and 8 of, and a new regulation 5A is inserted in, the principal Regulations to provide for payments by an NHS trust in respect of travelling expenses incurred by a patient in attending for NHS treatment at a hospital managed by the trust (regulations 3, 4 and 5). A new regulation 8A is inserted in the principal Regulations to provide for the reimbursement, by a Health Board to an NHS trust or to another health service body of payments made in respect of the travelling expenses incurred by a patient in attending hospital to receive NHS services from that trust, or from that other health service body, under the terms of a NHS contract with another health service body (regulation 6).

Regulation 8(2) of the principal Regulations is amended to enable the Secretary of State to extend, in a case where there is good cause for so doing, the period within which a claim for repayment of a relevant charge or relevant travelling expenses must be made (regulation 5(a)). An amendment is also made in Table B of Schedule 1 to the principal Regulations (which modifies the Income Support (General) Regulations 1987 for the purpose of calculating a person's requirements under the principal Regulations) to remove the exclusion of certain household repairs and improvements from the assessment of a person's housing costs (regulation 7).

Other amendments of a minor nature are made, and definitions are inserted, in the principal Regulations in consequence of the changes mentioned in this Note (regulation 2).