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STATUTORY INSTRUMENTS

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**1993 No. 642 (S.88)**

**NATIONAL HEALTH SERVICE, SCOTLAND**

The National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Amendment Regulations 1993

<i>Made</i>	- - - -	<i>10th March 1993</i>
<i>Laid before Parliament</i>		<i>11th March 1993</i>
<i>Coming into force</i>	- -	<i>1st April 1993</i>

The Secretary of State, in exercise of the powers conferred on him by sections 75A, 105 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 1993 and shall come into force on 1st April 1993.

(2) In these Regulations—

“the principal Regulations” means the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 1988(2);

“relevant charge” and “relevant travelling expenses” have the same meaning as in the principal Regulations.

**Amendment of regulation 2 of the principal Regulations**

2. In regulation 2(1) of the principal Regulations (Interpretation) for the definition of “Secretary of State” there shall be substituted:—

““Secretary of State” means the Secretary of State for Health;”.

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(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; relevant amending instruments are S.I. 1990/551, 1991/575 and 1992/754.

### **Amendment of regulation 7 of the principal Regulations**

3. In regulation 7(1) of the principal Regulations (claims for remission or payment) after the words “appropriate office” there shall be inserted the words “or to the Secretary of State.”.

### **Amendment of Schedule 1 to the principal Regulations**

4.—(1) Part II of Schedule 1 to the principal Regulations (Calculation of requirements) shall be amended in accordance with the following provisions of this Regulation.

(2) For paragraph 3(3) there shall be substituted the following paragraph—

“3.—(1) A claimant’s requirements shall be calculated as being the amount referred to in head (a) below less, where applicable, the amount referred to in head (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 provisions of regulations 17 to 21 of, and Schedules 2, 3, 4 and 7 to, the Income Support (General) Regulations 1987(4), but subject to the modifications referred to in paragraph 2(b) and (c) and paragraph 4, and

(ii) subject to sub-paragraph (2), the weekly amount of any council tax which the claimant or his partner is liable to pay under Part I or Part II of the Local Government Finance Act 1992(5);

(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(6).

(2) Subject to sub-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) Sub-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.”.

(3) In Table B(7)—

(a) in the entry in column 2 corresponding to the entry “regulation 17”(8) in column 1 for the words “paragraph (1)(g)” there shall be substituted the words “sub-paragraphs (bb) and (g) of paragraph (1)”;

(b) in the entry in column 2 corresponding to the entry “regulation 18”(9) in column 1 for the words “paragraph (1)(h)” there shall be substituted the words “sub-paragraphs (cc) and (h) of paragraph (1)”;

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(3) Relevant amending instrument is [S.I. 1990/551](#).

(4) [S.I. 1987/1967](#).

(5) [1992 c. 14](#).

(6) [1992 c. 4](#); Part VII was amended by the Local Government Finance Act 1992, section 103 and Schedule 9, which replaced references to community charge benefit with references to council tax benefit.

(7) Relevant amending instruments are [S.I. 1990/551](#) and [1990/1665](#).

(8) Relevant amending instruments are [S.I. 1988/910](#) amd [1445](#), [1989/1678](#), [1991/387](#) amd [1992/3147](#).

(9) Relevant amending instruments are [S.I. 1988/1228](#) and [1445](#), [1989/534](#) and [1034](#) and [1992/3147](#).

- (c) for the entry “regulations 19(10) and 21”(11) in column 1 and the corresponding entry in column 2 there shall be substituted the following entries:—

“regulation 19	As if for paragraph (1) there were substituted the following paragraph— “(1) Where the claimant— (a) lives in a residential care home or nursing home; or (b) if the claimant is a member of a family, he and the members of his family live in such a home, his weekly applicable amount shall, except in a case to which Part II of Schedule 4 (persons to whom regulation 19 does not apply) applies, be calculated in accordance with Part I of that Schedule.”;  as if paragraphs (1ZB) to (1ZJ) were omitted;  as if in the definition of “residential care home” in paragraph (3) there were added at the end— “(f) in which accommodation is provided under sections 21 to 24 and 26 of the National Assistance Act 1948(12) (provision of accommodation);”.
regulation 21	As if in paragraph (1) the words from “Subject to” to “amounts)” were omitted;  as if in paragraph (3) the definition of “residential accommodation” were omitted;  as if paragraphs (3A), (4) and (4A) were omitted.”;
(d) in the entry in column 2 corresponding to the entry “Schedule 2”(13) in column 1 there shall be added at the end the words “As if paragraph 2A were omitted.”;  (e) for the entry “Schedule 4”(14) in column 1 and the corresponding entry in column 2 there shall be substituted the following entry—	
“Schedule 4	As if in paragraph 1(1)(a)— (i) for the words “paragraph 3” there were substituted the words “sub-paragraph (1A) and paragraph 3”;

(10) Relevant amending instruments are S.I. 1988/663, 1445 and 2022, 1989/1678, 1991/1033 and 1992/3147.

(11) Relevant amending instruments are S.I. 1989/534, 1990/547 and 2324, 1991/236, 1033 and 1656, and 1992/2155 and 3147.

(12) 1948 c. 29.

(13) Relevant amending instrument is S.I. 1992/3147.

(14) Relevant amending instruments are S.I. 1988/1445 and 1992/3147.

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- (ii) as if the words from “but, except” to “paragraph 5” were omitted;

as if after paragraph 1(1) there were inserted the following sub-paragraph—

“(1A) Where a claimant is in accommodation provided under sections 21 to 24 and 26 of the National Assistance Act 1948, the weekly charge for the accommodation for the purposes of this paragraph shall be the payment or refund which the claimant is liable to make towards the cost of the accommodation under section 22 or, as the case may be, section 26 of that Act.”;

as if paragraphs 5 to 12 were omitted.”;

- (f) as if for the entry “Schedule 7”(15) in column 1 and the corresponding entry in column 2 there were substituted the following entries—

“Schedule 7

As if the references in paragraph 1 to sub-paragraph (g) of regulation 17(1) and sub-paragraph (h) of regulation 18(1) were omitted;

as if paragraphs 7, 9(b)(iii), 10A, 10B, 10C, 13, 16(a) and 17 were omitted”;

as if after paragraph 10 there were inserted the following paragraph—

“10ZA. A claimant who is a lone parent who is in a residential care home or nursing home temporarily.

10ZA. Any amount applicable to the claimant under paragraph 1(1) (a), (b) and (c) of Schedule 4, determined as if he were a single claimant, plus—

- (a) in respect of each child who is a member of his family, the appropriate amount in respect

of him  
prescribed  
in  
paragraph  
2(a) or  
(b) of  
Schedule 2  
or under  
this  
Schedule  
as  
appropriate;  
and

(b) any  
amount  
which  
would be  
applicable  
to the  
claimant,  
if he  
were not  
temporarily  
living  
away from  
home,  
under  
regulation 17(1)  
(c) or (f),  
or (d) in  
so far as  
it relates  
to the lone  
parent  
premium  
under  
paragraph  
8 of  
Schedule 2.”.”.

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### **Transitional provisions**

5. In the case of a claim made under regulation 8(2) of the principal Regulations (repayment)(16), where that claim relates to a relevant charge or relevant travelling expenses paid before 1st April 1993, the claimant’s resources and requirements shall be calculated as if these Regulations had not been made.

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(16) Relevant amending instruments are [S.I. 1991/575](#) and [1992/754](#).

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St. Andrew's House,  
Edinburgh  
10th March 1993

*Fraser of Carmyllie*  
Minister of State, Scottish Office

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## 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 principal Regulations”) which provide for the remission and repayment of certain charges which would otherwise be payable under the National Health Service (Scotland) Act 1978 and for the payment of travelling expenses incurred in attending a hospital.

Regulations 2 and 3 make minor amendments to the principal Regulations.

Regulation 4 amends Part II of Schedule 1, which governs the manner in which a person’s requirements are to be calculated. Paragraph 3 of the Schedule is amended in consequence of the abolition of community charges and community charge benefit, and the introduction of council tax and council tax benefit. Table B is amended to make special provision for the calculation of the requirements of people in residential care homes and nursing homes.

Regulation 5 is a transitional provision which provides that claims for refunds of charges or expenses paid before the commencement of these Regulations shall be treated as if these Regulations had not been made.