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STATUTORY INSTRUMENTS

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**1998 No. 642**

**The National Health Service (Optical Charges  
and Payments) (Scotland) Regulations 1998**

**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 1998 and shall come into force on 1st April 1998.

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

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

[<sup>F1</sup>“the Agency” means the Common Services Agency for the Scottish Health Service constituted under section 10 of the Act;]

<sup>F2</sup> ...

“capital limit” means the amount prescribed for the purposes of section 134(1) of the Social Security Contributions and Benefits Act 1992(1) as it applies to income support;

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

[<sup>F3</sup>“child tax credit” means child tax credit under the Tax Credits Act 2002;]

“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 prism-controlled bifocal lens;

[<sup>F4</sup>“disability element” means the disability element of working tax credit as specified in section 11(3) of the Tax Credits Act 2002;]

<sup>F2</sup> ...

“eligible person” is to be construed—

- (a) <sup>F5</sup> ...
- (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;

<sup>F6</sup> ...

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(1) 1992 c. 4. The capital limit is prescribed for the purposes of income support in regulation 45 of S.I. 1987/1967. Whilst £8,000 is applicable in most cases there is a limit of £16,000 in certain cases prescribed in regulation 53(1B) of these Regulations. Regulation 45 was substituted by regulation 12(1)(a) of S.I. 1996/462, regulation 12(1)(b)(ii) of which also added regulation 53(1B).

*Status: Point in time view as at 01/04/2008.*

*Changes to legislation: There are currently no known outstanding effects for the The National Health Service (Optical Charges and Payments) (Scotland) Regulations 1998. (See end of Document for details)*

“income-based jobseeker’s allowance” has the meaning given to it by section 1(4) of the Jobseekers Act 1995(2);

“income support” means income support under Part VII of the Social Security Contributions and Benefits Act 1992;

“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;

F7 ...

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

F8 ...

“Ophthalmic Services Regulations” means the National Health Service (General Ophthalmic Services) (Scotland) Regulations [F92006];

“optician” means an ophthalmic optician;

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

“patient’s contribution” is to be construed as follows—

- (a) for the purposes of Parts F10 ... IV and V, where a patient’s resources are less than his requirements, the contribution shall be nil;
- (b) F11 ...
- (c) for the purposes of Parts IV and V, where the patient’s resources exceed his requirements, the contribution shall be an amount equal to twice that excess;

“patient’s resources” means a person’s resources as calculated in accordance with regulation 6 of, and Schedule 1 to, the Remission Regulations;

[F12“pension credit guarantee credit” means state pension credit guarantee credit as construed in accordance with sections 1 and 2 of the State Pension Credit Act 2002;]

“redemption value” is to be construed—

- (a) F13 ...
- (b) for the purposes of Part IV, in accordance with regulation 14;
- (c) for the purposes of Part V, in accordance with regulation 19;

F14 ...

[F15“relevant income” has the same meaning as in section 7(3) of Part 1 of the Tax Credits Act 2002;]

“the Remission Regulations” means [F16the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) (No. 2) Regulations 2003] 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;

[F17“responsible authority” means—

- (a) F18 ...

- (b) in relation to a voucher issued or completed pursuant to Part IV, otherwise than by [<sup>F19</sup>a Health Board] the Health Board for the area in which the supply of the optical appliance to which it relates takes or is to take place, except in regulation 13 where it means the Agency;
- (c) in relation to a voucher issued or completed pursuant to Part IV by [<sup>F19</sup>a Health Board] the Health Board in whose area the patient resides, except in regulation 13 where it means the Agency;
- (d) in relation to a voucher issued or completed pursuant to Part V, otherwise than by [<sup>F19</sup>a Health Board] the Health Board for the area in which the replacement or repair of the optical appliance to which it relates takes or is to take place, except in regulations 15(1)(b) and (2), 16(6) and 18 where it means the Agency;
- (e) in relation to a voucher issued or completed pursuant to Part V by [<sup>F19</sup>a Health Board] the Health Board in whose area the patient resides, except in regulations 15(1)(b) and (2), 16(6) and 18 where it means the Agency;
- (f) in relation to a payment made pursuant to Part VI, otherwise than by [<sup>F19</sup>a Health Board] the Health Board for the area in which the supply, replacement or repair of the optical appliance to which it relates took place, except in regulation 20(3), (4), (5), (6) and (7) where it means the Agency;
- (g) in relation to a payment made pursuant to Part VI by [<sup>F19</sup>a Health Board] the Health Board in whose area the patient resides, except in regulation 20(3), (4), (5), (6) and (7) where it means the Agency.]

[<sup>F20</sup>“severe disability element” means the severe disability element of working tax credit as specified in section 11(6)(d) of the Tax Credits Act 2002;]

[<sup>F21</sup>“small glasses” means glasses—

- (a) prescribed for a child who is under the age of 7 years at the date of issue of a voucher relating to those glasses where the voucher is issued on the same occasion as the prescription relating to those glasses is issued;
- (b) having a frame which is either custom made or a stock frame requiring extensive adaptation to ensure an adequate fit; and
- (c) having a boxed centre distance of no more than 55 millimetres, and for this purpose “box centre” is to be construed in accordance with Part 1 of British Standard 3521/91 (Terms relating to ophthalmic optics and spectacle frames) published by the British Standards Institution as effective immediately before 9th March 1999;]

“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;

[<sup>F22</sup>“tax credit” has the same meaning as in section 1(2) of the Tax Credits Act 2002;]

<sup>F2</sup> ...

[<sup>F23</sup>“voucher” for the purpose of enabling a payment to be made under these Regulations means—

(a) <sup>F24</sup> ...

(b) in Part IV, a voucher form supplied—

- (i) where a testing of sight is carried out otherwise than by [<sup>F25</sup>a Health Board], by the Health Board to the person who carries it out;

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- (ii) where a testing of sight is carried out by [<sup>F26</sup>a Health Board], by the [<sup>F27</sup>Health Board];
- (c) in Part V, a voucher form supplied to the supplier by the Health Board.]
- [<sup>F28</sup>“working tax credit” means working tax credit under the Tax Credits Act 2002;]
- (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) [<sup>F29</sup>subject to sub-paragraph (bb),] 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
- [<sup>F30</sup>(bb) where an optical appliance has a bifocal lens, the reading segment of which is more than 4 dioptries more powerful than the distance segment, the power of the lens shall be determined according to the power of the reading segment; and]
- (c) a monocle shall be treated as though it were glasses.
- [<sup>F31</sup>(3A) A reference to “the Agency” in these Regulations includes a reference to the Agency acting on behalf of the [<sup>F32</sup>Health Board.]]
- (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.

#### Textual Amendments

- F1** Words in reg. 1(2) inserted (1.4.1999) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 1999 (S.I. 1999/748), regs. 1, **3(a)(i)**
- F2** Words in reg. 1(2) omitted (6.4.2003) by virtue of The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No. 2) Regulations 2003 (S.S.I. 2003/218), regs. 1(3), **3(2)(f)** (with reg. 5)
- F3** Words in reg. 1(2) inserted (6.4.2003) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No. 2) Regulations 2003 (S.S.I. 2003/218), regs. 1(3), **3(2)(a)** (with reg. 5)
- F4** Words in reg. 1(2) inserted (6.4.2003) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No. 2) Regulations 2003 (S.S.I. 2003/218), regs. 1(3), **3(2)(b)** (with reg. 5)
- F5** Words in reg. 1(2) omitted (1.4.2006) by virtue of The National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 2006 (S.S.I. 2006/138), regs. 1(1), **2(2)(a)**
- F6** Words in reg. 1(2) omitted (5.10.1999) by virtue of The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No.2) Regulations 1999 (S.S.I. 1999/64), regs. 1, **3(2)(c)** (with reg. 10)
- F7** Words in reg. 1(2) omitted (1.4.2006) by virtue of The National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 2006 (S.S.I. 2006/138), regs. 1(1), **2(2)(b)**
- F8** Words in reg. 1(2) omitted (1.4.2007) by virtue of The National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 2007 (S.S.I. 2007/192), regs. 1(1), **2(2)(a)**
- F9** Word in reg. 1(2) substituted (1.4.2007) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 2007 (S.S.I. 2007/192), regs. 1(1), **2(2)(b)**

- F10** Words in reg. 1(2) omitted (1.4.2006) by virtue of The National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 2006 (S.S.I. 2006/138), regs. 1(1), **2(2)(c)(i)**
- F11** Words in reg. 1(2) omitted (1.4.2006) by virtue of The National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 2006 (S.S.I. 2006/138), regs. 1(1), **2(2)(c)(ii)**
- F12** Words in reg. 1(2) inserted (6.10.2003) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No. 3) Regulations 2003 (S.S.I. 2003/431), regs. 1, **2(2)**
- F13** Words in reg. 1(2) omitted (1.4.2006) by virtue of The National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 2006 (S.S.I. 2006/138), regs. 1(1), **2(2)(d)**
- F14** Words in reg. 1(2) omitted (1.4.2007) by virtue of The National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 2007 (S.S.I. 2007/192), regs. 1(1), **2(2)(c)**
- F15** Words in reg. 1(2) inserted (6.4.2003) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No. 2) Regulations 2003 (S.S.I. 2003/218), regs. 1(3), **3(2)(c)** (with reg. 5)
- F16** Words in reg. 1(2) substituted (1.4.2006) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 2006 (S.S.I. 2006/138), regs. 1(1), **2(2)(e)**
- F17** Words in reg. 1(2) substituted (5.10.1999) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No.2) Regulations 1999 (S.S.I. 1999/64), regs. 1, **3(2)(e)** (with reg. 10)
- F18** Words in reg. 1(2) omitted (1.4.2006) by virtue of The National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 2006 (S.S.I. 2006/138), regs. 1(1), **2(2)(f)**
- F19** Words in reg. 1(2) substituted (1.4.2004) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No. 2) Regulations 2004 (S.S.I. 2004/168), regs. 1(2), **2(2)(b)**
- F20** Words in reg. 1(2) inserted (6.4.2004) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 2004 (S.S.I. 2004/97), regs. 1(3), **2(2)**
- F21** Words in reg. 1(2) substituted (1.4.1999) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 1999 (S.I. 1999/748), regs. 1, **3(a)(iv)**
- F22** Words in reg. 1(2) inserted (6.4.2003) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No. 2) Regulations 2003 (S.S.I. 2003/218), regs. 1(3), **3(2)(d)** (with reg. 5)
- F23** Words in reg. 1(2) substituted (5.10.1999) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No.2) Regulations 1999 (S.S.I. 1999/64), regs. 1, **3(2)(f)** (with reg. 10)
- F24** Words in reg. 1(2) omitted (1.4.2006) by virtue of The National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 2006 (S.S.I. 2006/138), regs. 1(1), **2(2)(g)**
- F25** Words in reg. 1(2) substituted (1.4.2004) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No. 2) Regulations 2004 (S.S.I. 2004/168), regs. 1(2), **2(2)(c)(i)**
- F26** Words in reg. 1(2) substituted (1.4.2004) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No. 2) Regulations 2004 (S.S.I. 2004/168), regs. 1(2), **2(2)(c)(ii)(aa)**
- F27** Words in reg. 1(2) substituted (1.4.2004) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No. 2) Regulations 2004 (S.S.I. 2004/168), regs. 1(2), **2(2)(c)(ii)(bb)**
- F28** Words in reg. 1(2) inserted (6.4.2003) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No. 2) Regulations 2003 (S.S.I. 2003/218), regs. 1(3), **3(2)(e)** (with reg. 5)
- F29** Words in reg. 1(3)(b) inserted (1.4.1999) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 1999 (S.I. 1999/748), regs. 1, **3(b)**
- F30** Reg. 1(3)(bb) inserted (1.4.1999) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 1999 (S.I. 1999/748), regs. 1, **3(c)**
- F31** Reg. 1(3A) inserted (1.4.1999) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 1999 (S.I. 1999/748), regs. 1, **3(d)**
- F32** Words in reg. 1(3A) substituted (5.10.1999) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No.2) Regulations 1999 (S.S.I. 1999/64), regs. 1, **3(3)** (with reg. 10)

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*Changes to legislation: There are currently no known outstanding effects for the The National Health Service (Optical Charges and Payments) (Scotland) Regulations 1998. (See end of Document for details)*

**Commencement Information**

**I1** Reg. 1 in force at 1.4.1998, see [reg. 1\(1\)](#)

**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 <sup>F33</sup>... [<sup>F34</sup>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).

**Textual Amendments**

**F33** Words in [reg. 2\(2\)](#) omitted (5.10.1999) by virtue of [The National Health Service \(Optical Charges and Payments\) \(Scotland\) Amendment \(No.2\) Regulations 1999 \(S.S.I. 1999/64\)](#), regs. 1, [4](#) (with [reg. 10](#))

**F34** Words in [reg. 2\(2\)](#) substituted (1.4.2004) by [The National Health Service \(Optical Charges and Payments\) \(Scotland\) Amendment \(No. 2\) Regulations 2004 \(S.S.I. 2004/168\)](#), regs. 1(2), [2\(3\)](#)

**Commencement Information**

**I2** Reg. 2 in force at 1.4.1998, see [reg. 1\(1\)](#)

<sup>F35</sup>**PART III**

**PAYMENTS TOWARDS FOR COST OF SIGHT TESTS**

**Textual Amendments**

**F35** [Pt. 3](#) omitted (1.4.2006) by virtue of [The National Health Service \(Optical Charges and Payments\) \(Scotland\) Amendment Regulations 2006 \(S.S.I. 2006/138\)](#), regs. 1(1), [2\(3\)](#)

**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 <sup>F36</sup>....

(2) An eligible person is a person who at the time of [<sup>F37</sup>the payment for] 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 11 to the Act<sup>(3)</sup>;
- (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 [<sup>F38</sup>] 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;

<sup>F39</sup>(c) .....

<sup>F40</sup>(d) .....

- (e) his income resources as calculated in accordance with regulation [<sup>F41</sup>8] 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 [<sup>F42</sup> or exceeds his requirements as so calculated by fifty per cent or less of the amount of the charge [<sup>F43</sup>referred to in regulation 3(1)(b)(ii)] (supply of drugs and appliances by chemists) of the National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations [<sup>F44</sup>2008]] and his capital resources as so calculated do not exceed the capital limit;

- (f) he is a member of the same family as a person described in paragraph (e) of this paragraph;

<sup>F45</sup>(g) .....

<sup>F46</sup>(h) .....

- (i) he is in receipt of an income-based jobseeker's allowance; or
- (j) he is a member of the same family as a person described in sub-paragraph (i) of this paragraph.

[<sup>F47</sup>(k) he is a member of a family—

- (i) one member of which is receiving—
  - (aa) working tax credit and child tax credit; or
  - (bb) working tax credit which includes a disability element [<sup>F48</sup>or severe disability element]; or
  - (cc) child tax credit, but is not eligible for working tax credit;";

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

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*Changes to legislation: There are currently no known outstanding effects for the The National Health Service (Optical Charges and Payments) (Scotland) Regulations 1998. (See end of Document for details)*

and

(ii) where the relevant income of the person or persons to whom an award of a tax credit is made under section 14 of the Tax Credits Act 2002 is determined at the time of the award not to exceed [<sup>F49</sup>£15,050]; or

(l) he is a member of a family in respect of whom there is a current notice of entitlement under regulation 12A].

[<sup>F50</sup>(m) he is in receipt of pension credit guarantee credit; or

(n) he is a member of the same family as a person described in sub-paragraph (m) of this paragraph.]

[<sup>F51</sup>(4) In paragraph (3)–

[<sup>F52</sup>(a) in sub-paragraphs (b), (f) and (n), “family” has the meaning given to it by section 137(1) of the Social Security Contributions and Benefits Act 1992, as it applies to income support;]

(b) in sub paragraph (j), “family” has the meaning given to it by section 35 of the Jobseekers Act 1995; and

(c) in sub paragraphs (k) and (l), “family” has the meaning given to it by regulation 2(2) of the Tax Credits (Definition and Calculation of Income) Regulations 2002.]

(5) For the purposes of regulation 10 and other provisions of this Part as they apply to payments where the testing of sight was by or on behalf of [<sup>F53</sup>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 <sup>F54</sup>... [<sup>F55</sup>Health Board] to be non-tolerant of his existing optical appliance.

#### Textual Amendments

**F36** Words in reg. 8(1)(b) omitted (5.10.1999) by virtue of The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No.2) Regulations 1999 (S.S.I. 1999/64), regs. 1, **5(a)** (with reg. 10)

**F37** Words in reg. 8(2) inserted (1.4.1999) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 1999 (S.I. 1999/748), regs. 1, **4**

**F38** Word in reg. 8(2)(d) substituted (1.4.2006) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 2006 (S.S.I. 2006/138), regs. 1(1), **2(4)(a)**

**F39** Reg. 8(3)(c) omitted (6.4.2003) by virtue of The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No. 2) Regulations 2003 (S.S.I. 2003/218), regs. 1(3), **3(3)(a)(ii)** (with reg. 5)

**F40** Reg. 8(3)(d) omitted (6.4.2003) by virtue of The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No. 2) Regulations 2003 (S.S.I. 2003/218), regs. 1(3), **3(3)(a)(ii)** (with reg. 5)

**F41** Word in reg. 8(3)(e) substituted (1.4.2006) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 2006 (S.S.I. 2006/138), regs. 1(1), **2(4)(b)**

**F42** Words in reg. 8(3)(e) inserted (6.4.2004) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No. 2) Regulations 2004 (S.S.I. 2004/168), regs. 1(4), **2(4)**

**F43** Words in reg. 8(3)(e) substituted (1.4.2008) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 2008 (S.S.I. 2008/106), regs. 1(1), **2(2)(a)**

**F44** Word in reg. 8(3)(e) substituted (1.4.2008) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 2008 (S.S.I. 2008/106), regs. 1(1), **2(2)(b)**

**F45** Reg. 8(3)(g) omitted (6.4.2003) by virtue of The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No. 2) Regulations 2003 (S.S.I. 2003/218), regs. 1(3), **3(3)(a)(ii)** (with reg. 5)



- F46** Reg. 8(3)(h) omitted (6.4.2003) by virtue of The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No. 2) Regulations 2003 (S.S.I. 2003/218), regs. 1(3), **3(3)(a)(ii)** (with reg. 5)
- F47** Reg. 8(3)(k)(l) inserted (6.4.2003) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No. 2) Regulations 2003 (S.S.I. 2003/218), regs. 1(3), **3(3)(a)(i)** (with reg. 5)
- F48** Words in reg. 8(3)(k)(i)(bb) inserted (6.4.2004) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 2004 (S.S.I. 2004/97), regs. 1(3), **2(3)(a)**
- F49** Sum in reg. 8(3)(k)(ii) substituted (6.4.2005) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 2005 (S.S.I. 2005/119), regs. 1(3), **2(3)**
- F50** Reg. 8(3)(m)(n) inserted (6.10.2003) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No. 3) Regulations 2003 (S.S.I. 2003/431), regs. 1, **2(3)(a)**
- F51** Reg. 8(4) substituted (6.4.2003) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No. 2) Regulations 2003 (S.S.I. 2003/218), regs. 1(3), **3(3)(b)** (with reg. 5)
- F52** Reg. 8(4)(a) substituted (6.10.2003) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No. 3) Regulations 2003 (S.S.I. 2003/431), regs. 1, **2(3)(b)**
- F53** Words in reg. 8(5) substituted (1.4.2004) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No. 2) Regulations 2004 (S.S.I. 2004/168), regs. 1(2), **2(5)(a)**
- F54** Words in reg. 8(5) omitted (5.10.1999) by virtue of The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No.2) Regulations 1999 (S.S.I. 1999/64), regs. 1, **5(g)(ii)** (with reg. 10)
- F55** Words in reg. 8(5) substituted (1.4.2004) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No. 2) Regulations 2004 (S.S.I. 2004/168), regs. 1(2), **2(5)(b)**

#### Commencement Information

- I3** Reg. 8 in force at 1.4.1998, see **reg. 1(1)**

#### Issue of vouchers by ophthalmic medical practitioners and opticians

**9.—(1)** 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 is 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 (3) but subject to paragraph (4), issue to the patient a voucher relating to the optical appliance prescribed on the same occasion as he issues the prescription in accordance with [<sup>F56</sup>paragraph 14(6)] of Schedule 1 to the Ophthalmic Services Regulations.

[<sup>F57</sup>(1A) Where—

- (a) a patient has been supplied with an optical appliance following a testing of sight under the Ophthalmic Services Regulations or otherwise;
- (b) the patient has indicated that he is an eligible person; and
- (c) the ophthalmic medical practitioner or optician, having consulted any records which he has relating to the patient and having made such enquiry of the patient as he considers relevant, is satisfied that—
  - (i) the prescription relating to the patient's existing optical appliance is unchanged; and
  - (ii) the patient requires a new optical appliance because his existing appliance has been rendered unserviceable by fair wear and tear,

the ophthalmic medical practitioner or optician may issue to the patient, in accordance with paragraph (2), a voucher relating to the optical appliance prescribed by the prescription.

*Status: Point in time view as at 01/04/2008.*

*Changes to legislation: There are currently no known outstanding effects for the The National Health Service (Optical Charges and Payments) (Scotland) Regulations 1998. (See end of Document for details)*

- (1B) Where—
- (a) a patient has been issued with a prescription following a testing of sight under the Ophthalmic Services Regulations or otherwise;
  - (b) the patient has indicated that, following the issue of the prescription, he has become an eligible person; and
  - (c) an ophthalmic medical practitioner or optician, having consulted any records which he has relating to the patient and having made such enquiry of the patient as he considers relevant, is satisfied that—
    - (i) no voucher has been issued in respect of the prescription; and
    - (ii) the prescription is unchanged,
 the ophthalmic medical practitioner or optician may issue to the patient a voucher relating to the optical appliance prescribed by the prescription.]
- (2) 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; and
  - (b) duly complete the relevant parts of the voucher with the name and address of the patient, the patient's date of birth, 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.
- (3) The circumstances referred to in paragraph (1) 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.
- (4) 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 [F58 Agency] being satisfied that the prescription for that existing appliance was clinically correct, has authorised the issue of a voucher.
- (5) Unless [F59 paragraph (1A) or] regulation 11 applies, not more than one voucher shall be issued to a patient in respect of any one optical appliance prescribed.

#### Textual Amendments

- F56** Words in [reg. 9\(1\)](#) substituted (1.4.2007) by [The National Health Service \(Optical Charges and Payments\) \(Scotland\) Amendment Regulations 2007 \(S.S.I. 2007/192\)](#), regs. 1(1), **2(4)**
- F57** [Reg. 9\(1A\)\(1B\)](#) inserted (1.4.1999) by [The National Health Service \(Optical Charges and Payments\) \(Scotland\) Amendment Regulations 1999 \(S.I. 1999/748\)](#), regs. 1, **5(a)**
- F58** Word in [reg. 9\(4\)](#) substituted (1.4.1999) by [The National Health Service \(Optical Charges and Payments\) \(Scotland\) Amendment Regulations 1999 \(S.I. 1999/748\)](#), regs. 1, **5(b)**
- F59** Words in [reg. 9\(5\)](#) inserted (1.4.1999) by [The National Health Service \(Optical Charges and Payments\) \(Scotland\) Amendment Regulations 1999 \(S.I. 1999/748\)](#), regs. 1, **5(c)**

#### Commencement Information

- I4** Reg. 9 in force at 1.4.1998, see [reg. 1\(1\)](#)

### Issue of vouchers by <sup>F60</sup>... [<sup>F61</sup>Health Boards] in connection with the hospital eye service

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

- (a) who has indicated that he is 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 <sup>F62</sup>... [<sup>F63</sup>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.

(2) The <sup>F64</sup>... [<sup>F65</sup>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; and
- (b) duly complete the relevant parts of the voucher with the name and address of the patient, the patient's date of birth, 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.

#### Textual Amendments

- F60** Words in reg. 10 heading omitted (5.10.1999) by virtue of The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No.2) Regulations 1999 (S.S.I. 1999/64), regs. 1, **6(a)** (with reg. 10)
- F61** Words in reg. 10 heading substituted (1.4.2004) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No. 2) Regulations 2004 (S.S.I. 2004/168), regs. 1(2), **2(6)(a)**
- F62** Words in reg. 10(1) omitted (5.10.1999) by virtue of The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No.2) Regulations 1999 (S.S.I. 1999/64), regs. 1, **6(b)** (with reg. 10)
- F63** Words in reg. 10(1) substituted (1.4.2004) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No. 2) Regulations 2004 (S.S.I. 2004/168), regs. 1(2), **2(6)(b)**
- F64** Words in reg. 10(2) omitted (5.10.1999) by virtue of The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No.2) Regulations 1999 (S.S.I. 1999/64), regs. 1, **6(b)** (with reg. 10)
- F65** Words in reg. 10(2) substituted (1.4.2004) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment (No. 2) Regulations 2004 (S.S.I. 2004/168), regs. 1(2), **2(6)(b)**

#### Commencement Information

- I5** Reg. 10 in force at 1.4.1998, see **reg. 1(1)**

### [<sup>F66</sup>Issue of replacement vouchers by the Agency, <sup>F67</sup>... or [<sup>F68</sup>Health Boards]

11. Where, on an application by a patient within 2 years of a voucher having been issued to him under regulation 9(1) or 10(1), the Agency<sup>F69</sup>... or [<sup>F70</sup>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 authorise an ophthalmic medical practitioner or optician to issue to the patient a replacement voucher completed in accordance with regulation 9(2) (a) and (b) or 10(2)(a) and (b), but with the date of issue of the voucher being that on which the replacement is issued.]

*Status: Point in time view as at 01/04/2008.*

*Changes to legislation: There are currently no known outstanding effects for the The National Health Service (Optical Charges and Payments) (Scotland) Regulations 1998. (See end of Document for details)*

### Textual Amendments

- F66** Reg. 11 substituted (1.4.1999) by [The National Health Service \(Optical Charges and Payments\) \(Scotland\) Amendment Regulations 1999 \(S.I. 1999/748\)](#), regs. 1, **6**
- F67** Words in reg. 11 heading omitted (5.10.1999) by virtue of [The National Health Service \(Optical Charges and Payments\) \(Scotland\) Amendment \(No.2\) Regulations 1999 \(S.S.I. 1999/64\)](#), regs. 1, **7(a)** (with reg. 10)
- F68** Words in reg. 11 heading substituted (1.4.2004) by [The National Health Service \(Optical Charges and Payments\) \(Scotland\) Amendment \(No. 2\) Regulations 2004 \(S.S.I. 2004/168\)](#), regs. 1(2), **2(7)(a)**
- F69** Words in reg. 11 omitted (5.10.1999) by virtue of [The National Health Service \(Optical Charges and Payments\) \(Scotland\) Amendment \(No.2\) Regulations 1999 \(S.S.I. 1999/64\)](#), regs. 1, **7(b)** (with reg. 10)
- F70** Words in reg. 11 substituted (1.4.2004) by [The National Health Service \(Optical Charges and Payments\) \(Scotland\) Amendment \(No. 2\) Regulations 2004 \(S.S.I. 2004/168\)](#), regs. 1(2), **2(7)(b)**

### Commencement Information

- I6** Reg. 11 in force at 1.4.1998, see [reg. 1\(1\)](#)

## Use of vouchers for the supply of optical appliances

**12.**—(1) Subject to paragraphs (4) [<sup>F71</sup>, (5) and (6)], 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 [<sup>F72</sup>2 years] 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; and
- (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 authority 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).

[<sup>F73</sup>(6) When the patient presents the voucher—

- (a) the supplier shall ask him to produce satisfactory evidence that he is an eligible person, unless the supplier, in cases other than where the patient is an eligible person by virtue of regulation 8(2)(c) or (d) already has satisfactory evidence of entitlement available to him;
- (b) if the patient has been asked for but, not produced satisfactory evidence of entitlement, the supplier shall record the fact on the voucher.]

### Textual Amendments

- F71** Words in [reg. 12\(1\)](#) substituted (10.4.2001) by [The National Health Service \(Optical Charges and Payments\) \(Scotland\) Amendment Regulations 2001 \(S.S.I. 2001/88\)](#), regs. 1(2), **4(a)**
- F72** Words in [reg. 12\(1\)](#) substituted (1.4.1999) by [The National Health Service \(Optical Charges and Payments\) \(Scotland\) Amendment Regulations 1999 \(S.I. 1999/748\)](#), regs. 1, 7
- F73** [Reg. 12\(6\)](#) inserted (10.4.2001) by [The National Health Service \(Optical Charges and Payments\) \(Scotland\) Amendment Regulations 2001 \(S.S.I. 2001/88\)](#), regs. 1(2), **4(b)**

### Commencement Information

- I7** [Reg. 12](#) in force at 1.4.1998, see [reg. 1\(1\)](#)

### [<sup>F74</sup>Notice of entitlement

**12A.—(1)** Where a person is entitled to the payment of, or a contribution towards, the cost incurred for the supply of an optical appliance because he is a member of a family described in regulation 8(3)(k), the Scottish Ministers shall issue a notice of entitlement under this regulation to that family.

(2) Such a notice of entitlement shall apply to—

- (a) any family member who is named in the notice of entitlement; and
- (b) any other member of such a person's family.

(3) A notice of entitlement issued under paragraph (1) shall be effective—

- (a) from such date; and
- (b) for such period,

as the Scottish Ministers may determine.

(4) Any change in the financial or other circumstances of a person who is a member of a family in respect of which a notice of entitlement has been issued under paragraph (1), during the period for which the notice of entitlement has been issued, shall not affect the validity of the notice of entitlement in respect of that period.

(5) A notice of entitlement means a notice issued under this regulation and not under regulation [<sup>F75</sup>9] of the Remission Regulations.]

### Textual Amendments

- F74** [Reg. 12A](#) inserted (6.4.2003) by [The National Health Service \(Optical Charges and Payments\) \(Scotland\) Amendment \(No. 2\) Regulations 2003 \(S.S.I. 2003/218\)](#), regs. 1(3), **3(4)** (with [reg. 5](#))
- F75** Word in [reg. 12A\(5\)](#) substituted (1.4.2006) by [The National Health Service \(Optical Charges and Payments\) \(Scotland\) Amendment Regulations 2006 \(S.S.I. 2006/138\)](#), regs. 1(1), **2(5)**

### Payments to suppliers

**13.—(1)** Except where it was the supplier, the responsible authority 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;

*Status: Point in time view as at 01/04/2008.*

*Changes to legislation: There are currently no known outstanding effects for the The National Health Service (Optical Charges and Payments) (Scotland) Regulations 1998. (See end of Document for details)*

- (b) the optical appliance is not sold or supplied in contravention of section [F7627(1)] of the Optician's Act 1989(4); and
- (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 authority, 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 authority 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.

[F77(3) The responsible authority shall also make a payment, to be determined by the Scottish Ministers, to the supplier to meet or contribute to the cost incurred by the supplier in order to comply with regulation 12(6).]

#### Textual Amendments

**F76** Word in [reg. 13\(2\)\(b\)](#) substituted (1.4.1999) by [The National Health Service \(Optical Charges and Payments\) \(Scotland\) Amendment Regulations 1999 \(S.I. 1999/748\)](#), regs. 1, **8**

**F77** [Reg. 13\(3\)](#) inserted (1.5.2001) by [The National Health Service \(Optical Charges and Payments\) \(Scotland\) Amendment Regulations 2001 \(S.S.I. 2001/88\)](#), regs. 1(2)(c), **5**

#### Commencement Information

**I8** [Reg. 13](#) in force at 1.4.1998, see [reg. 1\(1\)](#)

### Redemption value of voucher for supply of optical appliances

**14.—(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 this Part of 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 for the time being determined pursuant to regulation 2 which would have been payable by the patient for the supply but for this Part;
- (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 by the patient's contribution.

(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.

#### Commencement Information

**I9** Reg. 14 in force at 1.4.1998, see [reg. 1\(1\)](#)

## PART V

### PAYMENTS FOR COST OF REPLACEMENT OR REPAIR OF OPTICAL APPLIANCES

#### Eligibility – replacement or repair

**15.**—(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 authority 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 [<sup>F78</sup>in regulation 8(2)(b), (c), (d) or (e)] suffering from illness [<sup>F79</sup>or disability], where the appliance needs replacement or repair in consequence of its loss or damage and the responsible authority is satisfied, after making such enquiries as it considers relevant, that the loss or damage would not have occurred but for that illness [<sup>F79</sup>or disability].

(2) No payment shall be made by virtue of paragraph (1)(a) or (b) unless the responsible authority 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 its supplier or manufacturer.

#### Textual Amendments

**F78** Words in [reg. 15\(1\)\(b\)](#) substituted (1.4.2000) by [The National Health Service \(Optical Charges and Payments\) \(Scotland\) Amendment Regulations 2000 \(S.S.I. 2000/45\)](#), regs. 1(1), **3(a)**

**F79** Words in [reg. 15\(1\)\(b\)](#) inserted (1.4.2000) by [The National Health Service \(Optical Charges and Payments\) \(Scotland\) Amendment Regulations 2000 \(S.S.I. 2000/45\)](#), regs. 1(1), **3(b)**

#### Commencement Information

**I10** Reg. 15 in force at 1.4.1998, see [reg. 1\(1\)](#)

### Completion of vouchers for replacement or repair

16.—(1) A patient who considers that a payment may be made under this Part 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.

[<sup>F80</sup>(2) In the case of a replacement, the supplier shall—

- (a) ask the patient to produce satisfactory evidence of entitlement, unless the supplier, in cases other than where the patient is an eligible person by virtue of regulation 8(2)(c) or (d), already has satisfactory evidence of entitlement available to him;
- (b) mark on the 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;
- (c) duly complete the relevant part of the voucher with—
  - (i) the name and address of the patient,
  - (ii) the patient's date of birth;
- (d) if the patient has been asked for, but not produced, satisfactory evidence of entitlement, record the fact on the voucher.

(3) In the case of a repair, the supplier shall—

- (a) ask the patient to produce satisfactory evidence of entitlement, unless the supplier, in cases other than where the patient is an eligible person by virtue of regulation 8(2)(c) or (d), already has satisfactory evidence of entitlement available to him;
- (b) mark on the 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;
- (c) 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 lens included in the appliance and, if so, how many,
  - (ii) the repair of a frame and, if so, whether it is the whole frame, the front of the frame or one or both sides of the frame;
- (d) duly complete the relevant parts of the voucher with—
  - (i) the name and address of the patient,
  - (ii) the patient's date of birth;
- (e) if the patient has been asked for, but not produced, satisfactory evidence of entitlement, record the fact on 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 authority 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 18(2)(b)(iv).



(6) In a case to which regulation 15(1)(b) applies, a supplier intending to use the voucher under regulation 17 shall first submit it to the responsible authority 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.

#### Textual Amendments

**F80** Reg. 16(2)(3) substituted (1.5.2001) by [The National Health Service \(Optical Charges and Payments\) \(Scotland\) Amendment Regulations 2001 \(S.S.I. 2001/88\)](#), regs. 1(2)(c), [6](#)

#### Commencement Information

**I11** Reg. 16 in force at 1.4.1998, see [reg. 1\(1\)](#)

### Use of vouchers for replacement or repair

17. 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.

#### Commencement Information

**I12** Reg. 17 in force at 1.4.1998, see [reg. 1\(1\)](#)

### Payments to suppliers for replacement or repair

18.—(1) Except where it was the supplier, the responsible authority 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 17.

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

- (a) the patient has signed the declarations and undertaking referred to in regulation 16(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 16(6);
  - (iii) made a claim for payment on a duly completed voucher to the responsible authority 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 authority of the amount of the patient's contribution, if any.

[<sup>F81</sup>(3) The responsible authority shall also make a payment, to be determined by the Scottish Ministers, to the supplier to meet or contribute to the cost incurred by the supplier in order to comply with regulation 16(2) or (3).]

#### Textual Amendments

**F81** Reg. 18(3) inserted (1.5.2001) by [The National Health Service \(Optical Charges and Payments\) \(Scotland\) Amendment Regulations 2001 \(S.S.I. 2001/88\)](#), regs. 1(2)(c), [7](#)

*Status: Point in time view as at 01/04/2008.**Changes to legislation: There are currently no known outstanding effects for the The National Health Service (Optical Charges and Payments) (Scotland) Regulations 1998. (See end of Document for details)***Commencement Information****I13** Reg. 18 in force at 1.4.1998, see [reg. 1\(1\)](#)**Redemption value of voucher for replacement or repair**

**19.**—(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 this Part;
- (b) the face value of the voucher or, in the case of the replacement of one only of a pair of contact lenses, [<sup>F82</sup>£51.90].

(2) Subject to paragraph (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 this Part of 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—

- (a) that the element of the value of a voucher which relates to the repair of a frame shall not exceed [<sup>F83</sup>£13.40]; and
- (b) 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 [<sup>F84</sup>£58.50].

(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.

**Textual Amendments**

**F82** Sum in [reg. 19\(1\)\(b\)](#) substituted (1.4.2008) by [The National Health Service \(Optical Charges and Payments\) \(Scotland\) Amendment Regulations 2008 \(S.S.I. 2008/106\)](#), [regs. 1\(1\), 2\(3\)\(a\)](#) (with [reg. 3](#))

**F83** Sum in [reg. 19\(3\)\(a\)](#) substituted (1.4.2008) by [The National Health Service \(Optical Charges and Payments\) \(Scotland\) Amendment Regulations 2008 \(S.S.I. 2008/106\)](#), [regs. 1\(1\), 2\(3\)\(b\)](#) (with [reg. 3](#))

**F84** Sum in [reg. 19\(3\)\(b\)](#) substituted (1.4.2008) by [The National Health Service \(Optical Charges and Payments\) \(Scotland\) Amendment Regulations 2008 \(S.S.I. 2008/106\)](#), [regs. 1\(1\), 2\(3\)\(c\)](#) (with [reg. 3](#))

**Commencement Information****I14** Reg. 19 in force at 1.4.1998, see [reg. 1\(1\)](#)

## PART VI

### PAYMENTS TO PATIENTS

#### Payments to patients in respect of the supply, replacement or repair of optical appliances

**20.**—(1) A payment may be made under this regulation to a person of a description specified by regulation 8(2) or 15(1) who pays for the supply, replacement or repair of an optical appliance without exercising his right under regulation 9(1), 10(1) or 15(1) to a payment to meet or contribute towards the cost incurred for the supply, replacement or repair of such optical appliance.

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

- (a) make a claim to the Secretary of State if he considers that he falls within the description specified in regulation 8(2)(c) or (d); or
- (b) in all other cases, make a claim to the responsible authority.

(3) [<sup>F85</sup>Subject to paragraph (3A),] any such claim must be made within three months after the date of [<sup>F86</sup>payment for] the supply, replacement or repair of the optical appliance, or within such further period as the Secretary of State or the responsible authority may for good cause allow, and that claim must be made on a form provided by or on behalf of the Secretary of State or the responsible authority for that purpose.

[<sup>F87</sup>(3A) Where a patient pays by instalments for the supply, replacement or repair of an optical appliance, any claim he makes under paragraph (2)(a) or (b) must be made within three months after the date of payment of the first instalment.]

(4) It is a further condition of entitlement to a payment under paragraph (1) that the patient produces in support of his claim such evidence as the Secretary of State or the responsible authority may reasonably require including the receipt for any fee paid for the supply, replacement or repair.

(5) [<sup>F88</sup>Subject to paragraph (7),] where the Secretary of State is satisfied that the patient is entitled to a payment as a result of a claim under paragraph (2)(a), he shall authorise in writing the payment of the amount in question to the patient by the responsible authority and, on receipt of such authorisation, the responsible authority shall make a payment to the patient of an amount equal to the redemption value of the voucher which could have been completed under regulation 9, 10 or 16 if the patient had satisfied the requirements of regulation 9(1), 10(1) or 16(4), as the case may be.

(6) [<sup>F89</sup>Subject to paragraph (7),] where the responsible authority is satisfied that the patient is entitled to a payment of a claim under paragraph (2)(b), it shall make a payment to the patient of an amount equal to the redemption value of the voucher which could have been completed under regulation 9, 10, or 16 if the patient had satisfied the requirements of regulation 9(1), 10(1) or 16(4), as the case may be.

[<sup>F90</sup>(7) Where the responsible authority makes a payment under paragraph (5) or (6) to a patient who pays by instalments for the supply, replacement or repair of an optical appliance, that payment shall be made as soon as reasonably practicable after the date on which the total value of the instalments paid becomes equal to or greater than the redemption value of the voucher which could have been completed under regulation 9, 10 or 16 if the patient had satisfied the requirements of regulation 9(1), 10(1) or 16(4), as the case may be.]

#### Textual Amendments

**F85** Words in reg. 20(3) inserted (1.4.1999) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 1999 (S.I. 1999/748), regs. 1, **10(a)(i)**

**F86** Words in reg. 20(3) inserted (1.4.1999) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 1999 (S.I. 1999/748), regs. 1, **10(a)(ii)**

*Status: Point in time view as at 01/04/2008.*

*Changes to legislation: There are currently no known outstanding effects for the The National Health Service (Optical Charges and Payments) (Scotland) Regulations 1998. (See end of Document for details)*

- F87** Reg. 20(3A) inserted (1.4.1999) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 1999 (S.I. 1999/748), regs. 1, **10(b)**
- F88** Words in reg. 20(5) inserted (1.4.1999) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 1999 (S.I. 1999/748), regs. 1, **10(c)**
- F89** Words in reg. 20(6) inserted (1.4.1999) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 1999 (S.I. 1999/748), regs. 1, **10(d)**
- F90** Reg. 20(7) inserted (1.4.1999) by The National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 1999 (S.I. 1999/748), regs. 1, **10(e)**

#### Commencement Information

- I15** Reg. 20 in force at 1.4.1998, see **reg. 1(1)**

## PART VII

### 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 authority makes a payment under these Regulations, the person who makes the declaration shall repay the amount of that payment to the responsible authority.

(2) Where a supplier makes a claim for payment to the responsible authority, representing that the conditions specified in regulation 5(2), 13(2) or 18(2) are fulfilled, but those conditions are not fulfilled and the authority makes a payment to the supplier under these Regulations, it may recover the amount of that payment from the supplier.

#### Commencement Information

- I16** Reg. 21 in force at 1.4.1998, see **reg. 1(1)**

#### Signatures and claims for payments

**22.** A signature required by these Regulations shall be given, and a claim for payment pursuant to regulation 6 or 20 shall be made—

- (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;
  - (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—
  - [<sup>F91</sup>(i) who is looked after by a local authority within the meaning of section 17(6) of the Children (Scotland) Act 1995 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.

**Textual Amendments**

**F91** Reg. 22(c)(i) substituted (1.4.1999) by [The National Health Service \(Optical Charges and Payments\) \(Scotland\) Amendment Regulations 1999 \(S.I. 1999/748\)](#), regs. 1, **11**

**Commencement Information**

**I17** Reg. 22 in force at 1.4.1998, see [reg. 1\(1\)](#)

**Application of these Regulations**

**23.** The amounts specified in these Regulations apply only in relation to a voucher accepted or used pursuant to regulation 12 or regulation 17 on or after 1st April 1998.

**Commencement Information**

**I18** Reg. 23 in force at 1.4.1998, see [reg. 1\(1\)](#)

**Revocations**

**24.** The Regulations specified in column (1) of Schedule 4 are revoked to the extent specified in column (3) of that Schedule.

**Commencement Information**

**I19** Reg. 24 in force at 1.4.1998, see [reg. 1\(1\)](#)

St Andrew's House,  
Edinburgh

*Sam Galbraith*  
Minister for Health Scottish Office

**Status:**

Point in time view as at 01/04/2008.

**Changes to legislation:**

There are currently no known outstanding effects for the The National Health Service (Optical Charges and Payments) (Scotland) Regulations 1998.