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STATUTORY INSTRUMENTS

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**1999 No. 748 (S. 52)**

**NATIONAL HEALTH SERVICE, SCOTLAND**

**The National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 1999**

<i>Made</i>	- - - -	<i>9th March 1999</i>
<i>Laid before Parliament</i>		<i>11th March 1999</i>
<i>Coming into force</i>	- -	<i>1st April 1999</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:

**Citation and commencement**

1. These Regulations may be cited as the National Health Service (Optical Charges and Payments) (Scotland) Amendment Regulations 1999 and shall come into force on 1st April 1999.

**Amendment of the National Health Service (Optical Charges and Payments) (Scotland) Regulations 1998**

2. The National Health Service (Optical Charges and Payments) (Scotland) Regulations 1998(2) shall be amended in accordance with the following provisions of these Regulations.

**Amendment of regulation 1**

3. In regulation 1 (interpretation)–
- (a) in paragraph (2)–
    - (i) after the definition of “the Act” there is inserted–

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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, was 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) S.I. 1998/642.

““the Agency” means the Common Services Agency for the Scottish Health Service constituted under section 10 of the Act;”;

(ii) in the definition of “NHS sight test fee”–

(a) in sub-paragraph (a) for “£39.04” there is substituted “£40.33”; and

(b) in sub-paragraph (b) for “£14.10” there is substituted “£14.57”;

(iii) for the definition of “responsibility authority” there is substituted–

““responsible authority” means–

(a) in relation to a voucher completed or a payment made pursuant to Part III, the Health Board for the area in which the testing of sight took place, except for regulation 5 and 6 where it means the Agency;

(b) in relation to a voucher issued or completed pursuant to Part IV, otherwise than by an NHS trust, the Health Board for the area in which the supply of the optical appliance took place, except for regulation 13 where it means the Agency;

(c) in relation to a voucher issued pursuant to regulation 10 or completed pursuant to regulation 16 by an NHS trust, the Health Board in whose area the patient resides;

(d) in relation to a voucher issued or completed pursuant to Part V, otherwise than by an NHS trust, the Health Board for the area in which the replacement or repair of the optical appliance took place except for regulation 15(1)(b) and (2), 16(6) and 18 where it means the Agency;

(e) in relation to a payment made pursuant to Part VI, otherwise than by an NHS trust, the Health Board for the area in which the supply, replacement or repair of the optical appliance to which it relates took place except for regulation 20(3), (4), (5), (6) and (7) where it means the Agency;

(f) in relation to a payment made pursuant to regulation 20 by an NHS trust, the Health Board in whose area the patient resides;”;

(iv) for the definition of “small glasses” there is substituted–

““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;”;

(b) in sub-paragraph (b) of paragraph (3), before the word “where” there is inserted “subject to sub-paragraph (bb),”;

(c) after sub-paragraph (b) of paragraph (3), there is inserted–

“(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”;

(d) after paragraph (3) there is inserted the following new paragraph–

“(3A) A reference to “the Agency” in these Regulations includes a reference to the Agency acting on behalf of the Board.”.

#### **Amendment of regulation 8**

4. In regulation 8 (eligibility – supply of optical appliances) in paragraph (2) after the words “at the time of” there is inserted “the payment for”.

#### **Amendment of regulation 9**

5. In regulation 9 (issue of vouchers by ophthalmic medical practitioners and opticians)–

(a) after paragraph (1) there is inserted–

“(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.

(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.”;
- (b) in paragraph (4) for the words “Health Board responsible for the arrangements for the sight test,” there is substituted “Agency”;
- (c) in paragraph (5) after the word “Unless” there is inserted “paragraph (1A) or”.

#### **Amendment of regulation 11**

6. For regulation 11 (issue of replacement vouchers by Health Boards or NHS Trusts) there is substituted–

### **“Issue of replacement vouchers by the Agency, Health Boards or NHS trusts**

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, a Health Board or NHS Trust 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.”.

### **Amendment of regulation 12**

7. In regulation 12 (use of vouchers for the supply of optical appliances), in paragraph (1) for the words “six months” there is substituted “2 years”.

### **Amendment of regulation 13**

8. In regulation 13 (payments to suppliers), in paragraph 2(b) for “21(1)” there is substituted “27(1)”.

### **Amendment of regulation 19**

9. In regulation 19 (redemption value of voucher for replacement or repair)–
- (a) in paragraph (1)(b) for “£40.90” there is substituted “£42.00”;
  - (b) in paragraph (3)(a) for “£10.50” there is substituted “£10.80”; and
  - (c) in paragraph (3)(b) for “£46.10” there is substituted “£47.30”.

### **Amendment of regulation 20**

10. In regulation 20 (payments to patients in respect of the supply, replacement or repair of optical appliances)–

- (a) in paragraph (3)–
  - (i) before the words “Any such claim” there is inserted “Subject to paragraph (3A),”;
  - (ii) after the words “after the date of” there is inserted “payment for”;
- (b) after paragraph (3), there is inserted–

“(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.”;
- (c) in paragraph (5), before the words “Where the Secretary of State” there is inserted “Subject to paragraph (7),”;
- (d) in paragraph (6), before the words “Where the responsible authority” there is inserted “Subject to paragraph (7),”;
- (e) after paragraph (6), there is inserted–

“(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.”.

## Amendment of regulation 22

11. In regulation 22 (signatures and claims for payments) for paragraph (c)(i) there is substituted—  
“(i) who is looked after by a local authority within the meaning of section 17(6) of the Children (Scotland) Act 1995(3) by a person duly authorised by that authority”.

## Amendment of the Schedules to the Regulations

12.—(1) For Schedule 1 (voucher letter codes and face values – supply and replacement), there is substituted the Schedule 1 set out in Part I of the Schedule to these Regulations.

(2) For Schedule 2 (voucher values – repair) there is substituted the Schedule 2 set out in Part II of the Schedule to these Regulations.

(3) In Schedule 3 (prism, tints, photochromic lenses, small glasses and special frames and complex appliances)—

- (a) in paragraph 1(1)(a) (single vision lens with prism) for “£5.40” there is substituted “£6.00”;
- (b) in paragraph 1(1)(b) (other lens with prism) for “£6.70” there is substituted “£6.90”;
- (c) in paragraph 1(1)(c) (single vision tinted lens) for “£2.90” there is substituted “£3.00” and after the word “tinted” there is inserted “or photochromic”;
- (d) in paragraph 1(1)(d) (other tinted lens) for “£3.40” there is substituted “£3.50” and after the word “tinted” there is inserted “or photochromic”;
- (e) in paragraph 1(1)(e) (small glasses)—
  - (i) in sub-head (i) for “£46.10” there is substituted “£47.30”;
  - (ii) in sub-head (ii) for “£40.90” there is substituted “£42.00”; and
  - (iii) in sub-head (iii) for “£22.10” there is substituted “£22.70”;
- (f) in paragraph 1(1)(g) (specially manufactured frames), for “£46.10” there is substituted “£47.30”, for “£40.90” there is substituted “£42.00” and for “£22.10” there is substituted “£22.70”;
- (g) in paragraph 2(a) (minimum complex appliance payment – single vision lenses) for “£4.60” there is substituted “£10.00”;
- (h) in paragraph 2(b) (minimum complex appliance payment – other lenses) for “£24.80” there is substituted “£25.40”.

## Revocations

13. In paragraph 1 of Schedule 3—
- (a) sub-paragraph (1)(f) is hereby revoked; and
  - (b) in sub-paragraph (2), “, (f)” is omitted.

St Andrew’s House,  
Edinburgh  
9th March 1999

*Sam Galbraith*  
Minister for Health, Scottish Office

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SCHEDULE

Regulations 12(1) and (2)

PART I

SCHEDULE 1 AS SUBSTITUTED BY THESE REGULATIONS

“SCHEDULE 1

Regulations 1(2) and (3), 9(2)a), 10(2)(a),  
16(2)(a) and (3)(a)

VOUCHER LETTER CODES AND FACE VALUES – SUPPLY AND REPLACEMENT

<i>Column 1</i> <i>Type of optical appliance</i>	<i>Column 2</i> <i>Letter code</i>	<i>Column 3</i> <i>Face value of voucher</i>
1. Glasses with single vision lenses of a spherical power of not more than 6 dioptries with a cylindrical power of not more than 2 dioptries;	A	£28.70
2. Glasses with single vision lenses– (a) of a spherical power of more than 6 dioptries but less than 10 dioptries with a cylindrical power of not more than 6 dioptries; (b) of a spherical power of less than 10 dioptries with a cylindrical power of more than 2 dioptries but not more than 6 dioptries.	B	£43.60
3. Glasses with single vision lenses of a spherical power of 10 or more dioptries but not more than 14 dioptries with a cylindrical power of not more than 6 dioptries;	C	£59.40
4. Glasses with single vision lenses– (a) of a spherical power of more than 14 dioptries with any cylindrical power; (b) of a cylindrical power of more than	D	£134.20

<i>Column 1</i> <i>Type of optical appliance</i>	<i>Column 2</i> <i>Letter code</i>	<i>Column 3</i> <i>Face value of voucher</i>
6 dioptries with any spherical power.		
5. Glasses with bifocal lenses of a spherical power of not more than 6 dioptries with a cylindrical power of not more than 2 dioptries;	E	£49.50
6. Glasses with bifocal lenses—	F	£63.00
(a) of a spherical power of more than 6 dioptries but less than 10 dioptries with a cylindrical power of not more than 6 dioptries;		
(b) of a spherical power less than 10 dioptries with a cylindrical power of more than 2 dioptries but not more than 6 dioptries.		
7. Glasses with bifocal lenses of a spherical power of 10 or more dioptries but not more than 14 dioptries with a cylindrical power of not more than 6 dioptries;	G	£75.80
8. Glasses with prism-controlled bifocal lenses of any power or with bifocal lenses—	H	£147.50
(a) of a spherical power of more than 14 dioptries with any cylindrical power;		
(b) with a cylindrical power of more than 6 dioptries with any spherical power.		
9. Glasses not falling within any of paragraphs 1 to 8 for which a prescription is given in consequence of a testing of sight by a Health Board or an NHS trust.	I	£147.50

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<i>Column 1</i> <i>Type of optical appliance</i>	<i>Column 2</i> <i>Letter code</i>	<i>Column 3</i> <i>Face value of voucher</i>
10. Contact lenses for which a prescription is given in consequence of a testing of sight by a Health Board or an NHS trust.	J	£42.00”

## PART II

### SCHEDULE 2 AS SUBSTITUTED BY THESE REGULATIONS

“SCHEDULE 2

Regulation 19(2) and (3)

#### VOUCHER VALUES – REPAIR

<i>Column 1</i> <i>Nature of Repair to appliance</i>	<i>Column 2</i> <i>Letter Codes – Values</i>							
	<i>A</i>	<i>B</i>	<i>C</i>	<i>D</i>	<i>E</i>	<i>F</i>	<i>G</i>	<i>H&amp;I</i>
	<i>£</i>	<i>£</i>	<i>£</i>	<i>£</i>	<i>£</i>	<i>£</i>	<i>£</i>	<i>£</i>
Repair or replacement of one lens	8.90	16.40	24.30	52.90	19.40	26.00	32.50	58.70
Repair or replacement of two lenses	18.00	32.90	48.70	105.90	38.80	52.10	65.10	117.50
Repair or replacement of:	9.20	9.20	9.20	9.20	9.20	9.20	9.20	9.20
the front of a frame								
a side of a frame	5.50	5.50	5.50	5.50	5.50	5.50	5.50	5.50
the whole frame	10.80	10.80	10.80	10.80	10.80	10.80	10.80	10.80”



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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the National Health Service (Optical Charges and Payments) (Scotland) Regulations 1998 (“the principal Regulations”), which provide for payments to be made by means of a voucher system in respect of costs incurred by certain categories of persons in connection with the supply, replacement and repair of optical appliances.

Regulation 3 inserts a new definition of “the Agency” and substitutes a new definition of “small glasses” in regulation 2(1) of the principal Regulations. It also inserts a new regulation 1(3)(bb) to provide that, for the purposes of Schedule 1 to the principal Regulations, where an optical appliance has a bifocal lens, the reading segment of which is more powerful than the distance segment, the power of the lens is determined by reference to the power of the reading segment.

Regulation 3 also amends the definition of “NHS sight test fee”. This fee is set at two levels depending on whether the sight test was carried out at the patient’s home or not, and the appropriate figure is used to calculate the value of assistance towards the cost of a private sight test.

The two levels of NHS sight test fee are raised by regulation 3 as follows–

- (a) the figures used where the sight test was carried out at the patient’s home is raised from £39.04 to £40.33, which represents an increase of 3.3%; and
- (b) the figure used in all other cases is increased from £14.10 to £14.57, which represents an increase of 3.3%.

Regulation 4 amends regulation 8(2) of the principal Regulations to provide that a person’s status as an eligible person is determined by reference to the time when he pays for the supply of an optical appliance.

Regulation 5 inserts new paragraphs (1A) and (1B) in regulation 9 of the principal Regulations. These paragraphs set out the circumstances in which an ophthalmic medical practitioner or optician may issue a voucher to a patient who has had a recent sight test without needing to re-test his sight. The regulation also substitutes a reference to the Agency for the reference to a Health Board in relation to the authorisation of vouchers in the case of non-tolerance.

Regulation 6 substitutes a new regulation 11 which increases to 2 years the period during which a patient may apply for a replacement voucher and provides for the Agency, a Health Board or NHS trust to authorise the issue of a replacement voucher rather than itself issuing the replacement.

Regulation 7 increases to 2 years the period during which a patient may present a voucher to a supplier of optical appliances.

Regulation 9 amends regulation 19 of the principal regulations by uprating redemption values of vouchers for replacement or repair.

Regulation 10 amends regulation 20 of the principal Regulations. The regulation amends regulation 20(3) to provide that a claim for payment under regulation 20 must be made by a patient within 3 months after the date on which he paid for the supply, replacement or repair of the optical appliance in respect of which he makes the claim. Regulation 10 also inserts a new paragraph (3A) which provides that a patient who pays by instalments for the supply, replacement or repair of an appliance and who makes a claim under regulation 20(2) must make that claim within 3 months of the payment of the first instalment. A new paragraph (7) is also inserted which provides that the responsible authority must make a payment to the patient in respect of his claim no earlier than the

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date on which the total value of the instalments paid is at least equivalent to the value of the voucher to which he would have been entitled.

Regulation 12(1) and Part I of the Schedule substitute a new Schedule 1 in the principal Regulations. Regulation 12(2) and Part II of the Schedule substitutes a new Schedule 2 in the principal Regulations and regulation 12(3) amends Schedule 3 to the principal Regulations.

Regulation 13 revokes the provision in Schedule 3 to the principal Regulations concerning the issue or completion by NHS trusts of vouchers in respect of photochromic lenses.