
WELSH STATUTORY INSTRUMENTS

2007 No. 1104

**The National Health Service (Travelling Expenses
and Remission of Charges) (Wales) Regulations 2007**

PART 1

GENERAL AND INTRODUCTION

Title, commencement and application

1.—(1) The title of these Regulations is the National Health Service (Travelling Expenses and Remission of Charges) (Wales) Regulations 2007 and they come into force on 1 April 2007.

(2) These Regulations apply in relation to Wales.

Interpretation

2. In these Regulations—

“the Act” (“y Ddeddf”) means the National Health Service Act (Wales) 2006;

“abroad” (“dros y môr”) means any place outside the United Kingdom;

“annuity contract” (“contract blwydd-dal.”) means a contract that provides for periodic payments starting from a stated or contingent date and continuing for a fixed period or for the life of the annuity;

“capital limit” (“terfyn cyfalaf”) —

(a) in the case of a person who lives permanently in a care home or in accommodation provided by a local authority under sections 21 to 24 and 26 of the National Assistance Act 1948⁽¹⁾ is the amount prescribed in regulations made under section 22(5) of that Act, and

(b) in the case of any other person, means the amount prescribed for the purposes of section 134(1) of the Social Security Contribution and Benefits Act 1992⁽²⁾;

“care home” (“cartref gofal”) has the meaning given in section 3 of the Care Standards Act 2000⁽³⁾;

“child” (“plentyn”) means a person under the age of 16;

“child tax credit” (“credyd treth plentyn”) means a child tax credit under section 8 of the Tax Credits Act 2002⁽⁴⁾;

“claimant” (“ceisydd”) means a person who makes a claim for remission, payment or repayment in accordance with regulation 7 or 10;

(1) 1948 c. 29.

(2) 1992 c. 4. The relevant Regulations are the Income Support (General) Regulations 1987 S.I. 1987/1967.

(3) 2000 c. 14.

(4) 2002 c. 21.

“the Charges Regulations” (“y Rheoliadau Ffioedd”) means the National Health Service (Free Prescriptions and Charges for Drugs and Appliances) (Wales) Regulations 2007⁽⁵⁾;

“couple” (“pâr”) has the meaning given in section 137 of the Social Security Contributions and Benefits Act 1992;

“course of treatment” (“cwrs o driniaeth”) has the meaning given to it in regulation 2 (1) of the National Health Service (Dental Charges) (Wales) Regulations 2006⁽⁶⁾;

“date of the claim” (“dyddiad y cais”) means the date on which a claim made under regulation 7 or 10 is received by the National Assembly for Wales;

“dependent child or young person” (“plentyn neu berson ifanc dibynnol”) means any child or young person who is treated as the responsibility of the claimant or the claimant’s partner, where that child or young person is a member of the claimant’s household;

“disability element” (“elfen anabled”) means the disability element of working tax credit as specified in section 11(3) of the Tax Credits Act 2002;

“earnings” (“enillion”) has the meaning given in regulations 35 and 37 of the Income Support Regulations;

“family” (“teulu”) has the meaning given by section 137(1) of the Social Security Contributions and Benefits Act 1992 as it applies to income support, except that—

- (a) in regulation 5(1)(d), in relation to a person who is receiving income based jobseeker’s allowance it has the meaning given in section 35 of the Jobseeker’s Act 1995⁽⁷⁾,
- (b) in regulations 5(1)(e) and 8(2) it has the meaning assigned to it by regulation 2(2) of the Tax Credits (Definition and Calculation of Income) Regulations 2002⁽⁸⁾, and
- (c) where a claim has been made for support under Part VI of the Immigration and Asylum Act 1999⁽⁵⁻⁾, it means the asylum-seeker who has made that claim and any dependent, as defined in section 94 of that Act, whom he or she has included in that claim, and the references to “family” in regulations 5(2)(c) and 8(1), (3) and (7) should be construed accordingly;

“full rate” (“cyfradd lawn”) means the rate determined under section 26(2) of the National Assistance Act 1948;

“full time student” (“myfyriwr amser-llawn”) has the meaning given in regulation 61 of the Income Support Regulations;

“health care professional” (“proffesiynolyn gofal iechyd”) means a person who is a member of a profession regulated by a body mentioned in section 25(3) of the National Health Service Reform and Health Care Professions Act 2002⁽⁹⁾;

“household” (“aelwyd”) means—

- (a) a group of people who have a common address as their only or main residence and who either share one meal a day or share the living accommodation at that residence; or
- (b) the only or main residence of a single person who does not share either one meal a day or the living accommodation at that residence with another person;

“income-based jobseeker’s allowance” (“lwfans ceisio gwaith yn seiliedig ar incwm”) has the meaning given to it by section 1(4) of the Jobseeker’s Act 1995;

“income support” (“cymhorthdal incwm”) means income support under Part VII of the Social Security Contributions and Benefits Act 1992, and includes personal expenses addition, special

(5) S.I. 2007/121 (W.11).

(6) S.I.2006/491 (W.60)

(7) 1995 c. 18

(8) S.I. 2002/2006

(9) 1999 c. 33

transition addition and transitional addition as defined in regulation 2(1) of the Income Support (Transitional) Regulations 1987⁽¹⁰⁾;

“the Income Support Regulations” (“Rheoliadau Cymhorthdal Incwm”) means the Income Support (General) Regulations 1987⁽¹¹⁾;

“NHS charge” (“ffi GIF”) has the meaning given in regulation 4;

“NHS contract” (“contract GIG”) has the meaning given in section 7(1) of the Act;

“NHS travelling expenses” (“treuliau teithio GIG”) and “NHS foreign travelling expenses” (“treuliau teithio tramor GIG”) have the meanings given in regulation 3;

“NHS trust” (“ymddiriedolaeth GIG”) has the meaning given in section 18 of the Act;

“occupational pension scheme” (“cynllun pensiwn galwedigaethol”) has the meaning given by section 1 of the Pension Schemes Act ⁽¹²⁾;

“partner” (“partner”) means where a claimant—

- (a) is a member of a couple, the other member of that couple,
- (b) is married polygamously to two or more members of his or her household, any such member;

“pension credit guarantee” (“gwarant credyd pensiwn”) must be construed in accordance with sections 1 and 2 of the State Pension Credit Act 2002⁽¹³⁾;

“pension credit savings credit” (“credyd cynilion credyd pensiwn”) must be construed in accordance with sections 1 and 3 of the State Pension Credit Act 2002;

“personal pension scheme” (“cynllun pensiwn personol”) means a personal pension scheme—

- (a) as defined in section 1 of the Pension Schemes Act 1993; or
- (b) as defined in section 1 of the Pension Schemes (Northern Ireland) Act 1993⁽¹⁴⁾;

“port” (“porthladd”) includes an airport, ferry port or international train station in Great Britain from which an international journey begins;

“provider” (“darparwr”) means the provider of any services mentioned in regulation 3(1)(a);

“relevant date” (“dyddiad perthnasol”) means—

- (a) in the case of a claim under regulation 7, the date of the claim; and
- (b) in the case of claim under regulation 10(2), the date when the NHS charge or NHS travelling expenses were paid;

“relevant income” (“incwm perthnasol”) has the meaning given in section 7(2) of the Tax Credits Act 2002;

“relevant primary dental services” (“gwasanaethau deintyddol sylfaenol perthnasol”) has the meaning given to it in regulation 2(1) of the National Health Service (Dental Charges) (Wales) Regulations 2006;

“severe disability element” (“elfen anabledl difrifol”) means the severe disability element of working tax credit as specified in section 11(6)(d) of the Tax Credits Act 2002 (maximum rate);

“single person” (“person sengl”) means a person who does not have a partner and who is not responsible for, and who is not a member of the same household as, a child or young person;

“standard rate” (“cyfradd safonol”) means the standard rate fixed in accordance with section 22(2) of the National Assistance Act 1948;

(10) 2002 c. 17
(11) S.I. 1987/1969
(12) S.I. 1987/1967
(13) 1993 c. 48.
(14) 2002 c. 16

“State Pension Credit Regulations” (“Rheoliadau Credyd Pensiwn y Wladwriaeth”) means the State Pension Credit Regulations 2002(15);

“trade dispute” (“anghydfod masnach”) has the same meaning as in section 35(1) of the Jobseekers Act 1995;

“urgent course of treatment” (“cwrs o driniaeth frys”) has the meaning given to it in regulation 2(1) of the National Health Service (Dental Charges) (Wales) Regulations 2006;

“week” (“wythnos”) means a period of 7 days beginning with midnight between Saturday and Sunday;

“working tax credit” (“credyd treth gwaith”) means working tax credit under the Tax Credits Act 2002;

“young person” (“person ifanc”) has the meaning prescribed in regulation 14 of the Income Support Regulations.

NHS travelling expenses

3.—(1) In these Regulations “NHS travelling expenses” (“treuliau teithio GIG”) means the travelling expenses which a person necessarily incurs—

- (a) in attending—
 - (i) a health service hospital,
 - (ii) any other establishment managed by an NHS Trust or a Local Health Board, or
 - (iii) any other place in the United Kingdom,
 for the provision of any services (except personal medical or personal dental services provided under Parts 4 and 5 of the Act) under the care of a consultant in accordance with Parts 1 and 2 of the Act; and
- (b) in travelling to a port in Great Britain for the purpose of travelling abroad in order to receive services provided pursuant to arrangements made under section 10 of and paragraph 18 of Schedule 3 to the Act.

(2) In these Regulations “NHS foreign travelling expenses” (“treuliau teithio tramor GIG”) means the travelling expenses which a person necessarily incurs in travelling abroad from a port in Great Britain in order to receive services pursuant to arrangements made under section 10 of and paragraph 18 of Schedule 3 to the Act.

(3) NHS travelling expenses and NHS foreign travelling expenses include the travelling expenses of a companion in a case where the person to whom services are provided is either—

- (a) a child; or
- (b) a person whose medical condition is such that, in the opinion of a doctor involved in the provision of the services or, where appropriate, another health care professional so involved, a companion is necessary.

(4) A person who wishes to rely on entitlement to NHS travelling expenses must—

- (a) unless he or she is a person who by virtue of regulation 5(1) is not required to make such a claim, make a claim to entitlement under regulation 7; and
- (b) make an application for payment of travelling expenses under regulation 9.

(5) The amount of any NHS travelling expenses to which a person is entitled under these Regulations—

- (a) must be calculated by reference to the cost of travelling by the cheapest means of transport which is reasonable having regard to the person's age, medical condition and any other relevant circumstances; and
 - (b) where travel is by private car, may include a mileage allowance and car parking expenses.
- (6) A person is entitled to payment of NHS foreign travelling expenses only where the health service body which made the arrangements for the provision of services abroad agrees the mode and cost of travel and the necessity or otherwise for a companion before the costs are incurred.

Remissible NHS charges

4.—(1) In these Regulations “NHS charge” (“ffi GIG.”) means any charge which would otherwise be payable—

- (a) in accordance with regulations made under section 121(1) and (2) of the Act, for the supply of drugs, medicines, appliances and pharmaceutical services;
- (b) in accordance with regulations made under section 125 of the Act in respect of charges for relevant dental services.

(2) A person who wishes to rely on entitlement under these Regulations to remission of an NHS charge must—

- (a) unless he or she is a person who, by virtue of regulation 5(1), is not required to make such a claim, make a claim to entitlement under regulation 7 or regulation 10; and
- (b) provide any declaration or evidence of entitlement which is required under the Charges Regulations.

PART 2

ENTITLEMENT TO PAYMENT OF NHS TRAVELLING EXPENSES AND REMISSION OF NHS CHARGES

Entitlement to full remission and payment

5.—(1) Subject to paragraph (3), a person is entitled, without making a claim under regulation 7 (claims to entitlement), to the payment in full of NHS travelling expenses and the full remission of an NHS charge if he or she—

- (a) is receiving income support;
- (b) is receiving income based jobseeker's allowance;
- (c) is receiving pension credit guarantee credit;
- (d) is a member of the same family as a person who is receiving income support, income based jobseeker's allowance or pension credit guarantee credit; or
- (e) is a member of a family one member of which is receiving—
 - (i) working tax credit and child tax credit,
 - (ii) working tax credit which includes a disability element or a severe disability element, or
 - (iii) child tax credit, but is not eligible for working tax credit,

provided that the relevant income of the member or members to whom the tax credit is made under section 14 of the Tax Credits Act 2002 is determined at the time of the award not to exceed £15,050.

(2) Subject to paragraph (3), the following persons are entitled to the payment in full of NHS travelling expenses and the remission in full of an NHS charge but are required to make a claim for such payment or remission in accordance with regulation 7 (claims to entitlement)—

- (a) a person who lives permanently in —
 - (i) a care home, or
 - (ii) accommodation provided by a local authority under sections 21 to 24 and 26 of the National Assistance Act 1948 (provision of accommodation),
 and who has satisfied that authority that he or she is unable to pay for that accommodation at the standard rate, or, as the case may be, the full rate;
- (b) an asylum-seeker for whom support is provided under Part VI of the Immigration and Asylum Act 1999;
- (c) a member of the same family as an asylum-seeker described in sub-paragraph (b);
- (d) a relevant child within the meaning of section 23A of the Children Act 1989⁽¹⁶⁾ for whom a responsible local authority is providing support under section 23B(8) of that Act;
- (e) any other person who satisfies the National Assembly for Wales in accordance with Part 4 that his or her capital resources do not exceed the capital limit and that his or her income resources do not exceed his or her requirements or exceed his or her requirements by fifty per cent or less of the amount of the charge specified in regulation 3(1)(b) of the National Health Service (Charges for Drugs and Appliances) Regulations 2000⁽¹⁷⁾; and
- (f) a member of the same family as a person described in sub-paragraph (e).

(3) A person's entitlement to the payment in full of NHS travelling expenses or the full remission of an NHS charge arises only if at the time when—

- (a) the charge is made;
- (b) the NHS travelling expenses are incurred; or
- (c) in the case of a charge for relevant dental services—
 - (i) the arrangements for the treatment or urgent course of treatment under the Act are made,
 - (ii) the arrangements for the supply of a denture or other dental appliance under the Act otherwise than as part of relevant primary dental services are made, or
 - (iii) when the charge is made,
 he or she is a person described in paragraph (1) or (2).

Entitlement to partial remission and payment

6.—(1) Subject to paragraphs (2) and (3), a person is entitled to the payment in part of any NHS travelling expenses and to the remission in part of an NHS charge for relevant dental services provided at the time the travelling expenses are incurred or the charge is made—

- (a) his or her capital resources do not exceed the capital limit; and
- (b) either—
 - (i) his or her income resources exceed his or her requirements by less than a third of the charge, or as the case may be, by less than the travelling expenses incurred in any week, or
 - (ii) he or she is a member of the family of the person described in sub-paragraph (b)(i),

⁽¹⁶⁾ S.I. 2002/1792

⁽¹⁷⁾ 1989 c. 41.

but is required to make a claim for such remission or payment in accordance with regulation 7 (claims to entitlement).

- (2) Subject to paragraph (3), the amount to which a person is entitled under paragraph (1) is—
- (a) in the case of an NHS charge for relevant dental services, the difference between the charge and three times the amount by which his or her income resources exceed his or her requirements; and
 - (b) in the case of recoverable travelling expenses, the difference between the amount of the expenses incurred and the amount by which his or her income resources exceed his or her requirements.
- (3) In the case of an NHS charge for relevant dental services, the charge which is partially remissible under this regulation, and which must be used for the purposes of the calculation required under paragraph (2)(a), is the charge made—
- (a) for one course of treatment or urgent course of treatment, including any charge made for a denture or other dental appliance supplied in that course of treatment; or
 - (b) for the supply of a denture or other dental appliance under the Act otherwise than as part of relevant primary dental services.

Claims to entitlement

7.—(1) Subject to paragraph (3), a person who wishes to claim entitlement under regulation 5(2) (entitlement to full remission and payment) or regulation 6(1) (entitlement to partial remission and payment) must make a claim to the National Assembly for Wales on a form either provided for the purpose by it or approved by it.

(2) On a claim under paragraph (1), the claimant must provide such evidence and information as the National Assembly for Wales may reasonably request within such time as it may reasonably request.

(3) A claim may be made on behalf of another person where that person is unable, by reason of mental or physical incapacity, to make the claim himself or herself.

(4) Where a claimant does not comply with requests made by the National Assembly for Wales in respect of the evidence or information or timing mentioned in paragraph (2), the National Assembly for Wales may notify the claimant that the claim will not be determined and must be regarded as closed.

Notices of entitlement

8.—(1) Where the National Assembly for Wales determines, on a claim made under regulation 7 (claims to entitlement), that the claimant and any member of his or her family are entitled to any remission of an NHS charge or any payment in respect of NHS travelling expenses, it must issue a notice of entitlement to the claimant.

(2) Where a person is entitled to full remission of an NHS charge and payment in full of NHS travelling expenses because he or she is a member of a family described in regulation 5(1)(e) (tax credit families), the National Assembly for Wales must issue a notice of entitlement to that family and in such a case the notice will apply to all members of that family.

(3) A notice of entitlement issued under paragraph (1) applies to all members of the claimant's family and must state—

- (a) whether those persons are entitled to full or partial remission or payment; and

(b) in the case of partial remission or payment, the amount of any NHS charge for relevant dental services or NHS travelling expenses for which there is no entitlement to remission or payment.

(4) A notice of entitlement issued under paragraph (1) or paragraph (2) must state the length of time for which it is valid and the dates upon which that time begins and ends.

(5) A notice of entitlement issued under paragraph (1) is valid for 12 months beginning on the date of the claim except that—

- (a) in the case of a notice issued to a full time student in the final or only year of a course of study, it is valid from the date of the claim until the last day of that course;
- (b) in the case of a notice issued to a relevant child, it is valid for 12 months or until the child's 18th birthday, whichever is the later;
- (c) in the case of a notice issued to a person mentioned in regulation 5(2)(b) (asylum-seeker), it is valid for 6 months beginning on the date of the claim;
- (d) in the case of a notice issued to a person mentioned in paragraph (6) it is valid for the length of time specified in that paragraph.

(6) A notice of entitlement issued under paragraph (1) is valid for 5 years beginning on the date of the claim where the claimant is—

- (a) a single person aged not less than 65 years; or
- (b) one of a couple where one partner is aged not less than 60 years and one partner is aged not less than 65 years,

who does not receive any—

- (i) earnings;
- (ii) payments from an occupational pension scheme;
- (iii) payments from a personal pension scheme; or
- (iv) payments from an annuity contract.

(7) Paragraph (6) does not apply to a person who has a dependant child or young person as a member of his or her household.

(8) A notice of entitlement issued under paragraph (2) is valid from such date and for such period as the National Assembly for Wales may determine.

(9) Subject to paragraphs (10), (12) and (13), any change in the financial or other circumstances of a claimant, or of any member of his or her family, during the period of validity of a notice of entitlement will not affect its validity in respect of that period, or in the case of partial remission or payment, the amounts referred to in paragraph (3)(b).

(10) A claimant who is issued with a notice of entitlement which falls under paragraph (6) must notify the National Assembly for Wales of any change in the composition of his or her family or household during the period of validity of the notice of entitlement and the National Assembly for Wales may withdraw the notice of entitlement or vary the amounts stated on the notice of entitlement as referred to in paragraph (3)(b) if the claimant no longer meets the requirements of paragraphs (6) and (7).

(11) A claimant who is issued with a notice of entitlement to the payment in part of NHS travelling expenses or the remission in part of an NHS charge for relevant dental services may make a further claim in accordance with regulation 7 at any time during the life of the notice if he or she considers that by reason of a change in his or her financial circumstances, or those of any member of his or her family, the amounts stated on the notice of entitlement as referred to in paragraph 3(b) should be reduced.

(12) A claimant to whom a notice of entitlement has been issued under this regulation must return it to the National Assembly for Wales in any case where his or her claim is subsequently found to have been based on a false representation.

(13) A notice of entitlement issued under this regulation is effective only for the purposes of entitlement to remission of NHS charges and payment of NHS travelling expenses in accordance with these Regulations.

PART 3

PAYMENTS AND REPAYMENTS

Payment of NHS travelling expenses

9.—(1) Subject to paragraphs (2) to (5), where a person is entitled in accordance with regulation 5 or 6 to a payment in respect of NHS travelling expenses—

- (a) he or she must make an application to the provider; and
- (b) the provider must calculate the actual amount payable in accordance with these Regulations and make the payment.

(2) Where services are provided pursuant to arrangements made under section 10 of and paragraph 18 of Schedule 3 to the Act, the application for payment may be made to, and the calculation and payment may be made by, either the provider or the health service body which made those arrangements.

(3) In a case falling within regulation 3(1)(b) (travel to a port) the application for payment must be made to, and the calculation and payment must be made by, the health service body which made the arrangements referred to in that provision.

(4) A person who makes an application for payment in respect of NHS travelling expenses must sign a declaration of entitlement and provide such evidence of his or her entitlement and of his or her travelling expenses as the provider, or as the case may be, the health service body which made the arrangements, may require.

(5) Payment of NHS travelling expenses may be made before the expenses are incurred.

Claims for repayment

10.—(1) A person who is entitled under these Regulations to full or partial remission of an NHS charge or to full or payment in part of NHS travelling expenses and who pays such a charge or such travelling expenses without exercising his or her right to remission or payment, is entitled to be repaid that amount which would have been remitted or paid.

(2) A person who wishes to exercise his or her right to repayment under paragraph (1) must make a claim to the National Assembly for Wales on a form provided for the purposes by it or approved by it.

(3) A claim under paragraph (2) must be made within three months of the date on which the payment of the NHS charge or the NHS travelling expenses was made or within such longer period as the National Assembly for Wales may for good cause allow.

(4) Paragraphs (2) to (4) of regulation 7 (claims to entitlement) apply to a claim under this regulation.

Repayments

11.—(1) Where the National Assembly for Wales is satisfied that a claimant is entitled to any repayment under regulation 10 it must—

- (a) in the case of a repayment to be made in respect of NHS travelling expenses incurred by a person attending a hospital or any other place managed by an NHS trust, notify in writing the NHS trust of the claimant's entitlement; or
- (b) in a case falling within regulation 3(1)(b) (travel to a port) notify in writing the health service body which made the arrangements referred to in that provision of the claimant's entitlement; or
- (c) in any other case, cause a repayment to be made to the claimant in such manner as appears to the National Assembly for Wales to be appropriate in the circumstances of the particular case.

(2) Where an NHS trust or other health service body receives notification as mentioned in paragraph (1), it must calculate any amount payable in respect of NHS travelling expenses in accordance with these Regulations and make any repayment due to a claimant in respect of such NHS travelling expenses or NHS charge.

(3) A person who is entitled to repayment in respect of NHS travelling expenses must sign a declaration of entitlement and provide such evidence of his or her entitlement and of his or her travelling expenses as the health service body which is making the repayment may require.

Reimbursement of payments made in respect of NHS travelling expenses

12. Where a provider makes a payment under regulation 9(1) or (2) or a repayment under regulation 11(a) in respect of NHS travelling expenses incurred by a person who is receiving services from the provider, the amount of the payment or repayment in question will be reimbursed to the provider by the health service body for which those services are provided.

Payment and repayment of NHS foreign travelling expenses

13.—(1) A person who wishes to claim entitlement to payment or repayment for NHS foreign travelling expenses must apply in writing to the health service body which arranged the services referred to in regulation 3(2) within three months of the expenses having been incurred or such further period as that body may for good cause allow.

(2) Paragraph (2) to (4) of regulation 7 (claims to entitlement) apply to a claim (whether for payment or repayment) made under this regulation as if the references to the National Assembly for Wales in those paragraphs were references to the health service body which arranged the services referred to in regulation 3(2).

PART 4

CALCULATION OF RESOURCES AND REQUIREMENTS

General

14.—(1) Where it is necessary that the resources or requirements of a person should be calculated for the purposes of these Regulations, they must be calculated by the National Assembly for Wales according to the provisions of this Part and Schedule 1.

(2) The resources and requirements of a person must be calculated—

- (a) in the case of a claim made under regulation 7 (claims to entitlement) by reference to his or her resources and requirements at the date of the claim; or
- (b) in the case of a claim for repayment made under regulation 10(2) (claims for repayment) by reference to his or her resources and requirements at the date when the NHS charge or NHS travelling expenses were paid.

(3) Where a claimant is a member of a family, the resources and requirements of the other members of his or her family must be calculated in the same manner as those of the claimant and must be taken into account as if they were the claimant's resources and requirements, and in this Part and in the provisions referred to in Schedule 1, unless the context otherwise requires, any reference to the claimant includes the other members of his or her family.

(4) In a case where the earnings of any person are to be calculated and those earnings have been affected by a trade dispute, the earnings to be taken into account are the earnings which that person would have received if there had been no trade dispute.

(5) In the application of the Income Support Regulations as mentioned in regulation 15 and regulation 16 the provisions of those Regulations must be applied as if—

- (a) references to income support were to the remission of NHS charges and the payment of NHS travelling expenses,
- (b) references in any of those provisions to any other of those provisions were to that other provision as modified in accordance with regulation 15(4) or, as the case may be, regulation 16(4); and
- (c) the State Pension Credit (Consequential, Transitional and Miscellaneous Provisions) Regulations 2002(18) had not been made.

Calculation of resources

15.—(1) A claimant's resources must be calculated in terms of income and capital.

(2) Income must be calculated on a weekly basis according to the method of calculating or estimating income prescribed by the provisions of the Income Support Regulations, subject to the modifications referred to in paragraph (4).

(3) Capital must be calculated according to the method of calculating or estimating capital as prescribed by the provisions of Chapter VI in Part V of and Schedule 10 to the Income Support Regulations, subject to the modifications referred to in paragraph (4).

(4) The provisions of the Income Support Regulations apply and those provisions specified in column 1 of Table A in Schedule 1 must be applied in accordance with the modifications specified in the corresponding entries in column 2.

Calculation of requirements

16.—(1) A claimant's requirements must be calculated as being the amount referred to in sub-paragraph (a) less, where applicable, the amount referred to in sub-paragraph (b) below, as follows—

- (a) the amount which represents the aggregate of—
 - (i) the weekly applicable amount which would apply to the claimant, including that in respect of any other member of his or her family, in connection with a claim for income support as specified by the Income Support Regulations, but subject to the modifications referred to in paragraph (4), and

- (ii) subject to paragraph (2), the weekly amount of any council tax which the claimant or his or her partner is liable to pay under Part 1 of the Local Government Finance Act 1992⁽¹⁹⁾;
 - (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 or her family is entitled under the provisions of Part VII of the Social Security Contributions and Benefits Act 1992.
- (2) Subject to paragraph (3), where a claimant is jointly and severally liable for council tax in respect of a dwelling in which he or she is resident with one or more persons, the claimant's liability in respect of that tax for the purposes of these Regulations will be the amount of that tax divided by the number of persons who are jointly and severally liable for that tax.
- (3) Paragraph (2) does not apply where a claimant is jointly and severally liable for council tax in respect of a dwelling with only his or her partner.
- (4) The provisions of the Income Support Regulations apply and those provisions specified in column 1 of Table B in Schedule 1 must be applied in accordance with the modifications specified in the corresponding entries in column 2.

PART 5

TRANSITIONAL AND REVOCATIONS

Transitional Provisions

17.—(1) Any claim made under the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988⁽²⁰⁾ which has not been determined before 1 April 2007 must be treated as if it were a claim under these Regulations and determined accordingly.

(2) A notice of entitlement to remission of an NHS charge or to payment of NHS travelling expenses which has been issued under the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988 remains valid until its expiry in accordance with the provisions of those Regulations.

Revocations

18. The Regulations listed in column 1 of Schedule 2 are revoked to the extent indicated in column 2.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998⁽²¹⁾

27 March 2007

D. Elis-Thomas
The Presiding Officer of the National Assembly

(19) S.I.2002/3019
(20) 1992 c. 14.
(21) S.I.1988/551