

2005 No. (W.)

**NATIONAL HEALTH
SERVICE, WALES**

The National Health Service
(Travelling Expenses and
Remission of Charges)
(Amendment) (Wales) Regulations
2005

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988 (“the principal Regulations”) which provide for the remission of National Health Service (“NHS”) charges and for the payment of travelling expenses in certain cases.

Some persons are automatically entitled to the remission of NHS charges and to the payment of travelling expenses because they are in receipt of specified state benefits.

Entitlement to remission of NHS charges and to the payment of travelling expenses for other persons, who are not automatically entitled, is calculated in accordance with the provisions within the principal Regulations. In such cases, a calculation is made of the claimant’s income, capital and requirements (and those of that person’s family, where relevant). This calculation is made applying modified provisions of the Income Support (General) Regulations 1987 that are set out in Schedule 1 to the principal Regulations.

Regulations 4 and 6 amend the principal Regulations to increase the amounts used as the basis for calculating entitlement to remission of NHS charges and payment of travelling expenses.

Regulation 5 extends to 5 years the period of validity for a notice of entitlement to remission of charges and payment of travelling expenses where the notice is

issued to a single person aged 65 or over, or to one of a couple where one partner is aged 60 or over and the other partner is aged 65 or over where the claimant does not have certain types of income or a dependant child or young persons within their household.

Amendments made in regulation 6 provide that the earnings disregard set out in Schedule 8 of the Income Support (General) Regulations 1987 is to apply to a single person aged 60 or over and to a couple where one or both of the parties is aged 60 or over. Additionally, those lone parents aged 60 or more will have their requirements calculated in accordance with the amounts prescribed in the State Pension Credit Regulations 2002 and those lone parents aged less than 60 will have their requirements calculated in accordance with the prescribed amount specified in the Income Support (General) Regulations 1987.

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Made

Coming into force

15 July 2005

The National Assembly for Wales, in exercise of the powers conferred by sections 83A, 126(4) and 128(1) of the National Health Service Act 1977(1) hereby makes the following Regulations:

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- (1) 1977 c.49 (“the 1977 Act”); section 83A was inserted by section 14(1) of the Social Security Act 1988 (c.7) and amended by paragraph 6 of Schedule 2 to the Health and Medicines Act 1988 (c.49); by paragraph 18(5) of Schedule 9 to the National Health Service and Community Care Act 1990 (c.19) (“the 1990 Act”) and by paragraph 40 of Schedule 1 to the Health Authorities Act 1995 (c.17).

Section 126(4) was amended by section 65(2) of the 1990 Act and by paragraph 37(6) to Schedule 4 to the Health Act 1999 (c.17) (“the 1999 Act”).

See section 128(1), as amended by section 26(2)(g) and (i) of the 1990 Act for the definitions of “prescribed” and “regulations”.

The functions of the Secretary of State under sections 83A, 126(4) and 128(1) of the 1977 Act were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999, S.I.1999/672, article 2 and Schedule 1 as amended by the 1999 Act, section 66(5); by the Health and Social Care Act 2001 (c.15), section 68(1); by the National Health Service Reform and Health Care Professions Act 2002 (c.17), section 40(1) and by the Health and Social Care (Community Health and Standards) Act 2003 (c.43), section 197(1).

Title, commencement, interpretation and application

1.—(1) The title of these Regulations is the National Health Service (Travelling Expenses and Remission of Charges) (Amendment) (Wales) Regulations 2005 and they come into force on 15 July 2005.

(2) In these Regulations “the principal Regulations” (*“y prif reoliadau”*) means the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988(2).

(3) These Regulations apply in relation to Wales.

Amendment of regulation 2 of the principal Regulations

2. Regulation 2 of the principal Regulations (interpretation) is amended as follows—

(a) after the definition of “the Act” insert—

““annuity contract” 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;”;

(b) after the definition of “care home” insert—

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

(c) in the appropriate place in the alphabetical order insert—

““couple” has the meaning given in section 137 of the Social Security Contributions and Benefits Act 1992(3);”;

(d) after the definition of “date of claim” insert—

““dependant child or young person” 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;”;

(e) after the definition of “disability element” insert—

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

(f) after the definition of “full rate” insert—

““full time student” has the meaning given in regulation 61 of the Income Support Regulations;”;

(g) in the appropriate place in the alphabetical order insert—

““household means—

(2) S.I.1988/551

(3) 1992 c.4

- (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;”;
- (h) after the definition of “income support” insert—
 “ “the Income Support Regulations” means the Income Support (General Regulations) 1987(4);”.
- (i) after the definition of “NHS trust” insert—
 “ “occupational pension scheme” has the meaning given by section 1 of the Pension Schemes Act 1993(5);”;
- (j) after the definition of “pension credit savings credit” insert—
 “ “personal pension scheme” 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(6);”;
- (k) after the definition of “severe disability element” insert—
 “ “single person” means a person who does not have a partner and is not responsible for, and is not a member of the same household as, a child or young person;”;
- (l) after the definition of “standard rate” insert—
 “ “State Pension Credit Regulations” means the State Pension Credit Regulations 2002(7);”;
- (m) in the definition of “trade dispute” for the words “the Social Security Act 1975” substitute “section 35(1) of the Jobseekers Act 1995(8);”;
- (n) After the definition of “working tax credit” insert—
 “ “young person” has the meaning prescribed in regulation 14 of the Income Support Regulations;”.

(4) S.I.1987/1967
 (5) 1993 c.48
 (6) 1993 c.49
 (7) S.I.2002/1792
 (8) 1995 c.18

Amendment of regulation 4 of the principal Regulations

3. In regulation 4(2)(e) of the principal Regulations (persons entitled to full remission and payment) for “£14,600” substitute “£15,050”.

Amendment of regulation 6 of the principal Regulations

4. In regulation 6(2)(b) of the principal Regulations (calculation of resources and requirements) for the words “at the date when he paid the relevant charge or travelling expenses” substitute “at the date when the relevant charges or travelling expenses are paid in full”.

Amendment of regulation 7 of the principal Regulations

5.—(1) Regulation 7 of the principal Regulations (claims for remission or payment) is amended in accordance with the following provisions of this regulation.

(2) After paragraph (6)(d) insert—

“(e) in the case of a notice issued to a person described in paragraph (6B) it is valid for the length of time prescribed in that paragraph.”.

(3) After paragraph (6) insert—

“(6B) A notice of entitlement issued under paragraph (4) is valid for 5 years beginning on the date when 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 any personal pension scheme; or
- (iv) payments from an annuity contract.

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

(4) In paragraph (7) for the words “paragraph (8)” substitute “paragraphs (7A), (8), (9) and (10)”.

(5) After paragraph (7) insert—

“(7A) A claimant to whom is issued a notice of entitlement which falls under paragraph (6B) must notify the National Assembly for Wales of any change in the composition of his or her family or household during the life of the notice of entitlement and the National Assembly for Wales may withdraw the notice of entitlement, or, where the claimant is entitled to partial remission or payment, vary the amounts that have been specified on the notice in accordance with paragraph (5) if the claimant no longer meets the requirements of paragraphs (6B) and (6C).”.

(6) After paragraph (8) insert—

“(9) 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 the claim is subsequently found to have been based on a false representation.

(10) A notice of entitlement issued under this regulation is effective only for the purpose of entitlement to remission of relevant charges or payment of relevant travelling expenses in accordance with these Regulations.”.

Amendment of Part I of Schedule 1 to the principal Regulations

6.—(1) Part I of Schedule 1 to the principal Regulations (calculation of resources) is amended as follows.

(2) Table A (modifications of provisions of the Income Support (General) Regulations 1987 for the purposes of Part I of this Schedule) is amended in accordance with the following provisions of this paragraph—

- (a) in the entry modifying regulation 38 omit the entry relating to paragraphs (5), (6), (7) and (8);
- (b) in the entry modifying regulation 41 for the words “subsequent review” substitute “the date of that supersession”;
- (c) in the entry modifying regulation 44 for the words “subsequent review” substitute “the date of that supersession”;
- (d) in the entry modifying regulation 45—
 - (i) for “£20,000” substitute “£21,000”, and
 - (ii) for “£12,250” substitute “£14,750”;
- (e) in the entry modifying regulation 49 for the words “subsequent review” substitute “date of that supersession”;
- (f) In the entry modifying regulation 53—

- (i) for “£12,250” substitute “ £14,750”, and
- (ii) for “£20,000” substitute “£21,000”;
- (g) for the entry modifying regulation 61 substitute—
 - “regulation 61 In paragraph (1) in the definition of “academic year” after “September” insert “, or 1st August in the case of student attending a course in Scotland”. ”;
- (h) omit the entries modifying regulations 62(3A), 63(2) and 64(1)(c);
- (i) in the entry modifying regulation 66A omit the words “As if in paragraph (3)” to “the reference “(1) to (2C)”.”;
- (j) in the entry modifying Schedule 8—
 - (i) omit the entry beginning “As if in paragraph 4(2)” ,
 - (ii) in the appropriate place in the numerical order insert the following entry—
 - “ “For paragraph 4(3) substitute the following paragraph—
 - (3) This paragraph applies where—
 - (a) the claimant is aged not less than 60 years; or
 - (b) the claimant is a member of a couple, where at least one partner is aged not less than 60 years”. ”,
 - (iii) for the words “As if sub-paragraphs (3), (4), (5), (6) and (7) of paragraph 4 were omitted” substitute “ In paragraph 4 omit sub-paragraph (3)”.” ,
 - (iv) omit the entry modifying paragraph 5, and
 - (v) in the entry modifying paragraph 7 substitute—
 - “As if in paragraph 7 for the words “ 4 to 6B” substitute “none of paragraphs 4 or 5 or 6A or 6B”.”.

Amendment of Part II of Schedule 1 to the principal Regulations

7.—(1) Part II of Schedule 1 to the principal Regulations (Calculation of requirements) is amended as follows.

(2) Table B (modifications of provisions of the Income Support (General) Regulations 1987 for the

purposes of Part II of this Schedule) is amended in accordance with the following provisions of this paragraph—

- (a) for the entry modifying regulation 17—
substitute the following—

“Regulation 17 In paragraph (1) for the words from “18 to 22A” to “urgent cases” substitute “18, 19A and 21”.

Omit paragraphs (1)(bb) and (g).

In paragraph (1)(e) omit the words “mortgage interest payments or” and “other.”;”

- (b) in the entry modifying Schedule 2—

- (i) In the entry beginning “In Column (1)” for the words “(1) Single person aged not less than 25” to “Couple” substitute—

“(1) Single person aged not less than 25;

(2) Single person or lone parent aged not less than 60;

(3) Lone parent aged 60 or less;

(4) Single person aged less than 25;

(5) Couple;

(6) Couple where at least one partner is aged not less than 60.”;

- (ii) in the entry beginning “In Column (2) of the Table”—

- (aa) in sub-paragraph (b) for “paragraph(1)(e) of column (2) in the unmodified regulations” substitute “regulation 6(1)(b) of the State Pension Credit Regulations”,

- (bb) in sub-paragraph (c) for “(1)(b)” substitute “(1)(e)”,

- (cc) after sub-paragraph (d) insert—

“(e) against sub-paragraph (5) of column (1), the amount prescribed in paragraph (3)(d)

of column (2) in the unmodified regulations.

(f) against sub-paragraph (6) of column (1), the amount prescribed in regulation 6(1)(a) of the State Pension Credit Regulations.”,

(iii) for the words “As if paragraph 9A(b) were omitted” substitute “As if paragraphs 9 and 10 were omitted.” ,

(iv) omit the words from “As if for paragraph 10 there were substituted” to “the words “12(1)(a), (b) or (c).” ” ,

(v) after the entry modifying sub-paragraph (b) of paragraph (11) insert—

“In the cross heading relating to paragraph 12, omit “Higher Pensioner and”.” ,

(vi) omit the entry modifying paragraph 12(1)(c)(i) ,

(vii) after the entry modifying paragraphs 12(1)(c) and (4) insert—

“ In paragraph 12(1)(d)(ii) delete “higher pensioner premium or”.” ,

(c) in the entry modifying paragraph 3 of Schedule 3, omit sub-paragraph (b);

(d) in the entry modifying Schedule 7—

(i) omit the words from “In column (2) of paragraph 1” to “sub-paragraph (h) of regulation 18(1).” , and

(ii) in the entry relating to the inserted paragraph 10ZA, for the words “lone parent premium and family premium under paragraph 8 of Schedule 2” substitute “family premium under paragraph 3 of Schedule 2”.

Transitional provision

8. A notice of entitlement falling under regulation 7(6B) of the principal Regulations will only be issued in respect of a claim made under regulation 7 of the principal Regulations (claims for remission or payment) which are received on or after 15 July 2005.

Signed on behalf of the National Assembly for Wales
under section 66(1) of the Government of Wales Act
1998(9)

Date

Dafydd Elis Thomas

The Presiding Officer of the National Assembly