EXPLANATORY MEMORANDUM TO

THE NATIONAL HEALTH SERVICE (TRAVEL EXPENSES AND REMISSION OF CHARGES, OPTHALMIC SERVICES, AND OPTICAL CHARGES AND PAYMENTS) (AMENDMENT) REGULATIONS 2026

2026 No. 205

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Department of Health and Social Care ("DHSC") and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Minister Zubir Ahmed, Parliamentary Under-Secretary of State for Health Innovation and Safety confirms that this Explanatory Memorandum meets the required standard.

2.2 David Simmons, Director of Medicines at the Department of Health and Social Care confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Tess Zahri at the Department of Health and Social Care can be contacted by email at the following address with any queries regarding the instrument: prescribingpolicy@dhsc.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 In October 2025, the Department of Work and Pensions ("DWP") brought forward legislation to abolish the remaining 'legacy benefits' by 1 April 2026 and migrate claimants in receipt of these legacy benefits to Universal Credit.

4.2 This instrument will amend the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 ("the TERC Regulations"), National Health Service (Optical Charges and Payments) Regulations 2013 ("the Optical Charges Regulations") and the Primary Ophthalmic Services Regulations 2008 ("the POS Regulations") to remove references to two of these legacy benefits, Income Support ("IS") and income-based Job Seeker's Allowance ("JSA(IB)"). This instrument will also remove reference to tax credits (Working Tax Credit and Child Tax Credit), which were abolished on 5 April 2025, from the Optical Charges Regulations and the POS Regulations.

4.3 The TERC Regulations provide for exemptions to NHS prescriptions, NHS dental charges and NHS travel expenses, the Optical Charges Regulations provide help by means of a voucher system for the supply, replacement and repair of optical appliances, and the POS Regulations provide for entitlement to free NHS sight tests.

4.4 The removal of these references from these regulations will mean these legacy benefits will no longer provide a valid basis for being entitled to reimbursement of travel expenses incurred in the course of obtaining NHS services, or for entitlement to exemption from NHS prescription charges and dental charges under the Low Income Scheme ("LIS") or entitlement to free NHS sight tests or optical vouchers.

4.5 This instrument also amends the TERC Regulations to introduce a discretionary element to the NHS LIS resource calculation. This is required because the NHS LIS is currently underpinned by The Income Support (General) Regulations 1987 ("the IS Regulations"), which will remain in force but no longer be updated following the abolition of Income Support on 1 April 2026. This discretionary element will operate on an interim basis to ensure the NHS LIS continues to function as intended until it is underpinned by the Universal Credit Regulations 2013 ("the UC Regulations"), which is expected to take place on 1 April 2027.

Where does the legislation extend to, and apply?

4.6 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.7 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

5. Policy Context

What is being done and why?

Removing exemptions for legacy benefits

5.1 The DWP has brought forward legislation to abolish remaining legacy benefits from 1 April 2026. These legacy benefits include IS and JSA(IB), which currently entitle recipients to several types of help with health costs, including NHS prescriptions, NHS dental treatment, certain NHS travel expenses, NHS optical vouchers, NHS sight tests and NHS wigs and fabric supports.

5.2 On 1 April 2026, all active claims to these legacy benefits will end and the DWP will migrate claimants in receipt of these legacy benefits to Universal Credit, if they are eligible. However, to provide transitional protection during this migration, some IS and JSA(IB) payments will continue to be made for a further two-week run-on period.

5.3 Individuals migrated to Universal Credit will continue to be entitled to help with health costs (NHS prescriptions, NHS dental treatment, certain NHS travel expenses, NHS optical vouchers, NHS sight tests and NHS wigs and fabric supports), providing they meet the earnings threshold criteria.

5.4 This instrument will remove references to IS and JSA(IB) as a route to receiving help with NHS prescriptions, NHS dental treatment, certain NHS travel expenses, and NHS wigs and fabric supports from the TERC Regulations.

5.5 This instrument will also remove reference to these benefits in the POS Regulations, as a route to receiving free NHS sight tests, and will remove these benefits from the Optical Charges Regulations as a route to receiving NHS optical vouchers which provide help towards the cost of glasses or contact lenses.

Removing obsolete references to "tax credits"

5.6 The DWP abolished tax credits (Working Tax Credit and Child Tax Credit) on 5 April 2025. These were two legacy benefits which had previously provided entitlement to free NHS sight tests and NHS optical vouchers. The POS Regulations and the Optical Charges Regulations will therefore be amended to remove reference to tax credits.

NHS Low Income Scheme resource calculation

5.7 The NHS LIS provides help with health costs based on a comparison between a person's income and requirements. The NHS Business Services Authority ("BSA")

administers the NHS LIS and assesses applications in accordance with the TERC Regulations as amended. The TERC Regulations state that when assessing the resources and requirements of a claimant for the purposes of entitlement to help with health costs, the calculations must be done in accordance with the IS Regulations as modified by Schedule 1 to the TERC Regulations. Following the abolition of IS on 1 April 2026, the DWP will uprate IS benefit rates for 2026/27 but make no further changes. Therefore, the IS Regulations will not be amended to account for new or updated disregards (types or amounts of income and capital that are ignored when calculating resources for the NHS LIS). Amendments to regulation 16 of the TERC Regulations will allow the NHS BSA to continue to assess applications and administer the scheme in line with policy objectives by allowing NHS BSA (acting on behalf of the Secretary of State), to make the calculations on a discretionary basis where the DWP do not update the IS Regulations. This discretion is limited to what the Secretary of State considers necessary or desirable for the purpose of ensuring alignment with the entitlement available to UC recipients.

5.8 For example, in May 2022, a package of one-off cost of living support measures were introduced, including the Energy Bills Support Scheme (EBSS) and other measures such as a Cost of Living Payment payable to claimants of certain means-tested benefits. The DWP amended legislation so that these payments were disregarded from income calculations for benefits, including Income Support. This meant that these amounts could also be disregarded from the NHS LIS income calculation. The discretionary element that is being introduced will allow the NHS BSA to disregard similar financial payments and ensure these types of payments do not adversely affect entitlement to the NHS LIS.

What was the previous policy, how is this different?

5.9 The previous policy provided exemptions from health costs for claimants of IS and JSA(IB). Following their abolition on 1 April 2026, there will be no claimants of these legacy benefits, subject to a short transition period, and so this instrument will amend regulations to remove these obsolete exemptions.

5.10 Without this instrument, the TERC Regulations will continue to include receipt of IS and JSA(IB) as a valid basis for an exemption from NHS prescription and NHS dental charges, the POS Regulations will continue to include receipt of IS, JSA(IB) and tax credits as an entitlement to NHS funded sight tests and the Optical Charges Regulations will also include IS, JSA(IB) and tax credits as an entitlement to NHS optical vouchers to help with the cost of glasses or contact lenses.

5.11 Without this instrument, the TERC Regulations will not include an allowance for the NHSBSA to apply discretion when calculating resources for applicants to the NHS LIS with the objective of aligning IS recipients with UC recipients.

6. Legislative and Legal Context

How has the law changed?

6.1 Legacy benefits, such as IS and JSA(IB), will cease to exist on 1 April 2026. This instrument will amend the TERC Regulations, the POS Regulations and the Optical Charges Regulations to remove these benefits as a means to claim help with health costs. This instrument will also remove reference to tax credits from the Optical Charges Regulations and the POS Regulations as a basis for claiming entitlement to free NHS sight tests and NHS optical vouchers.

6.2 Regulation 16 of the TERC Regulations is being amended to introduce a discretion, allowing the NHSBSA (acting for SofS) to apply discretion where it is necessary or desirable when making the resources versus requirements calculation where the IS Regulations or a modification to the IS Regulations in Schedule 1 of the TERC Regulations are silent. The objective is to ensure alignment with UC recipients. Officials will work with NHS BSA to agree a procedure that will ensure discretionary decisions are reasonable, unbiased and clearly recorded.

Why was this approach taken to change the law?

6.3 This is the only possible approach to make the necessary changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 DHSC is not required to consult on the TERC Regulations, the POS Regulations or the Optical Charges Regulations.

8. Applicable Guidance

8.1 In relation to the ending of the DWP legacy benefits, the NHS BSA will update guidance to patients and the NHS. The exemptions will be removed from the FP10 prescription form and token and other applicable NHS forms over the coming months.

8.2 No guidance will be issued with regards to the NHS LIS discretionary element as this is an administrative change only.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument because of low impact on the public sector.

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because prescription charge exemptions and the NHS LIS have a low or no impact on businesses, charities and voluntary bodies.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because prescription charge exemptions and the NHS LIS have a low or no impact on businesses, charities and voluntary bodies.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").