STATUTORY INSTRUMENTS

2001 No. 4043

NATIONAL HEALTH SERVICE, ENGLAND

The National Health Service (Travelling Expenses and Remission of Charges) Amendment (No. 3) Regulations 2001

Made - - - - -	*19th December 2001*
Laid before Parliament	*21st December 2001*
Coming into force	
except for regulation 5 -	*18th January 2002*
regulation 5 -	*9th April 2002*

The Secretary of State for Health, in exercise of the powers conferred by sections 83A, 126(4) and 128(1) of the National Health Service Act 1977**(a)**, and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement, interpretation and extent

1.—(1) These Regulations may be cited as the National Health Service (Travelling Expenses and Remission of Charges) Amendment (No. 3) Regulations 2001.

(2) These regulations shall come into force:

(a) except for regulation 5, on 18th January 2002; and

(b) regulation 5, on 9th April 2002.

(3) In these Regulations "the principal Regulations" means the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988**(b)**.

(4) These Regulations extend to England only.

Amendment of regulation 2 of the principal Regulations

2. In regulation 2(1) of the principal Regulations (interpretation) the following definition is inserted after the definition of "partner"—

(a) 1977 c.49; 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 the Health Act 1999 (c.8) ("the 1999 Act"), Schedule 4 paragraph 37(6). Section 128(1) is an interpretation provision and is cited because of the meanings assigned to the words "prescribe" and "regulations"; section 128(1) was amended by section 26(2)(g) and (i) of the 1990 Act. The functions of the Secretary of State under the National Health Service Act 1977 are, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2(a) of the National Assembly for Wales (Transfer of Functions) Order 1999, S.I. 1999/672 as amended by section 66(5) of the 1999 Act; these Regulations, therefore, do not extend to Wales.

(b) S.I. 1988/551. The relevant amending instruments are: S.I. 1989/394, 1991/557, 1996/410, 1998/2417, 1999/767, 2000/621 and 2001/742.

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""port" includes an airport, ferry port or international train station in Great Britain from which an international journey begins.".

Amendment of regulation 3 of the principal Regulations

3.—(1) After sub-paragraph (c) of paragraph (3) of regulation 3 of the principal Regulations (entitlement to full remission and payment) there is inserted—

"(d) in travelling to a port in Great Britain for the purpose of travelling to a destination outside the United Kingdom in order to receive treatment provided pursuant to arrangements made under section 23**(a)** of the Act or paragraph 13 of Schedule 2 to the National Health Service and Community Care Act 1990**(b)**.".

Insertion of regulation 3A in the principal Regulations

4. After regulation 3 of the principal Regulations (entitlement to full remission and payment) there is inserted—

"**Entitlement to payment for travel abroad**

3A.—(1) Where a person receives services provided outside the United Kingdom pursuant to arrangements made under section 23 of the Act or paragraph 13 of Schedule 2 to the National Health Service and Community Care Act 1990, that person is entitled, subject to paragraph (2), to payment or repayment of the whole amount of the travelling expenses incurred by him in travelling from a port in Great Britain to a destination outside the United Kingdom in order to receive treatment there (including the travelling expenses of a companion in a case where it is necessary on medical grounds that the person should be accompanied).

(2) The entitlement to payment in paragraph (1) is dependent upon the health service body which has made the arrangements agreeing the mode and cost of the travel before costs are incurred.".

Amendment of regulation 4 of the principal Regulations

5. In each of sub-paragraphs (c) and (g) of paragraph (2) of regulation 4 of the principal Regulations (description of persons entitled to full remission and payment) for "£71" there is substituted "£72.20".

Amendment of regulation 5A of the principal Regulations

6. In regulation 5A of the principal Regulations (payment of travelling expenses)—

(a) after "3(1)" there is inserted ", 3A";

(b) after paragraph (a) there is inserted—

"(aa) in a case falling within regulations 3(3)(d) or 3A, by the health service body which made the arrangements referred to in those provisions."

Amendment of regulation 5B of the principal Regulations

7. In regulation 5B(1) of the principal Regulations (payment to persons resident in the Isles of Scilly) after the words "in pursuance of the Act" there are added the words "or in making a journey between the Isles of Scilly and a port for the purpose mentioned in regulation 3(3)(d)".

Insertion of regulation 7A in the principal Regulations

8. After regulation 7 of the principal Regulations (claims for remission or payment) there is inserted the following regulation—

(a) The power in section 23 has been delegated to Health Authorities by Regulation 2(1) and Schedule 1 to the NHS (Functions of Health Authorities and Administration Arrangements) (England) Regulations 2001/747. It has been delegated to Primary Care Trusts by regulation 3(2)(a) of and Schedule 1 to the Primary Care Trust (Functions) (England) Regulations 2000/695.

(b) 1990 c.19.

"**Claims for payment or repayment for travel abroad**

7A—(1) A person who wishes to claim entitlement under regulation 3A for payment or repayment of any travelling expenses shall apply in writing to the health service body which has arranged the services referred to in that regulation within 3 months of the expenses having been incurred or such further period as that body may for good cause allow.

(2) Paragraphs (1A), (1B) and (2) of regulation 7 shall apply to claims (whether for payment or repayment) made under this regulation with the modification that references to the "Secretary of State" in paragraphs (1B) and (2) are to be read as references to the health service body which arranged the services referred to in regulation 3A.".

Amendment of regulation 8

9. After sub-paragraph (ii) of regulation 8(4)(a) of the principal Regulations (repayment) there is inserted—

"(iii) in a case falling within regulation 3(3)(d) the body which made the arrangements referred to in those provisions."

Amendment of Schedule 1A to the principal Regulations

10.—(1) In paragraphs 5, 6 and 7 of Schedule 1A to the principal Regulations (periods of validity of notices of entitlement) for the word "student" on each occasion it appears there is substituted "full-time student".

(2) In the Note to Schedule 1A after the definition of "remunerative work" there is added—

"'"full-time student" has the meaning assigned to it by regulation 61 of the Income Support (General) Regulations 1987**(a)**".

Signed by authority of the Secretary of State for Health

John Hutton
Minister of State,
Department of Health

19th December 2001

(a) S.I. 1987/1967 as amended by S.I. 1996/1944, 2000/1922, 2000/1981.

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EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988 ("the principal Regulations") to provide that the same rules which govern payment of travelling expenses to hospitals in England will apply to travelling expenses to a port in Great Britain for a person who travels to a country outside the United Kingdom to receive NHS services (regulation 3). The Regulations also provide that all NHS patients receiving services outside the United Kingdom will be entitled to payment of all travel expenses (including in some cases, those of a companion) from a port in Great Britain to the place where they are to receive those services (regulation 4). Regulations 6–9 make consequential amendments providing for claims for payment under the new provisions.

The Regulations also amend regulation 4 of the principal Regulations to increase the income level at which recipients of tax credits are entitled to remission of charges (regulation 5). Schedule 1A to the principal Regulations is amended so that the provisions governing the period of validity of a notice of entitlement to remission or payment of charges held by a student will relate only to full-time students (regulation 10).

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