2003 No. 376

NATIONAL HEALTH SERVICE

The National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 2003

Made	*1st August 2003*
Laid before the Scottish Parliament	*1st August 2003*
Coming into force	*5th August 2003*

The Scottish Ministers, in exercise of the powers conferred by sections 75A, 105(7) and 108(1) of the National Health Service (Scotland) Act 1978(**a**), and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 2003 and shall come into force on 5th August 2003.

Interpretation

2. In these Regulations, unless the context otherwise requires–

"the Act" means the National Health Service (Scotland) Act 1978;

"capital limit" in the case of–

(a) a person who lives permanently in accommodation provided by a care home service provider under section 2(3) of the Regulation of Care (Scotland) Act 2001(**b**), or in accommodation provided by a local authority under sections 21 to 24 and 26 of the National Assistance Act 1948(**c**), means the sum specified in regulation 20 of the National Assistance (Assessment of Resources) Regulations 1992(**d**); and

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

"child tax credit" means child tax credit under section 1(1)(a) of the Tax Credits Act 2002(**f**);

"claimant" means a person who makes a claim for remission, payment or repayment in accordance with regulation 9 or 11;

"date of claim" means the date on which a claim made under regulation 9(1) or regulation 11(2) is received in an appropriate office or by the Secretary of State;

(a) 1978 c.29; section 75A was inserted by the Social Security Act 1988 (c.7), section 14(2), and amended by the Health and Medicines Act 1988 (c.49), Schedule 2, paragraph 13, the National Health Service (Primary Care) Act 1997, Schedule 2, Part I, paragraphs 32 and 51, and the National Health Service and Community Care Act 1990 (c.19), Schedule 9, paragraph 19(13), and by S.I. 1998/235; section 105(7) was amended by the Health Services Act 1980 (c.53), Schedule 6, paragraph 5, and Schedule 7, and by the Health and Social Services and Social Security Adjudications Act 1983 (c.41), Schedule 9, paragraph 24, and by the Health Act 1999 (c.8), Schedule 4, paragraph 60; section 108(1) contains definitions of "prescribed" and "regulations" relevant to the exercise of the statutory powers under which these Regulations are made. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) 2001 asp 8.

(c) 1948 c.29.

(d) S.I. 1992/2977; relevantly amended by S.S.I. 2001/138, regulation 3.

(e) 1992 c. 4.

(f) 2002 c.21.

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

"family" has the meaning assigned to it by section 137(1) of the Social Security Contributions and Benefits Act 1992(**a**) as it applies to income support, except that:

(a) in regulation 4(2)(j) and (l) it has the meaning assigned to it by section 35 of the Jobseekers Act 1995(**b**);

(b) in regulation 4(2)(n) it has the meaning assigned to it by regulation 2(2) of the Tax Credits (Definition and Calculation of Income) Regulations 2002(**c**); and

(c) where a claim has been made for support under Part VI of the Immigration and Asylum Act 1999(**d**), it means the asylum-seeker who has made that claim and any dependant, as defined in section 94 of that Act, whom the asylum-seeker has included in that claim;

"full rate" means the rate determined under section 26(2) of the National Assistance Act 1948(**e**);

"income-based jobseeker's allowance" has the meaning assigned to it by section 1(4) of the Jobseekers Act 1995(**f**);

"income support" means income support under section 124 of the Social Security Contributions and Benefits Act 1992 and includes personal expenses addition, special transitional addition and transitional addition as defined in regulation 2(1) of the Income Support (Transitional) Regulations 1987(**g**);

"partner" means, where a claimant–

(a) is a member of a married or an unmarried couple, the other member of that couple; or

(b) is married polygamously to two or more members of the claimant's household, any such member;

"relevant charges" and "relevant travelling expenses" have the meanings prescribed by regulation 3(1);

"the relevant income" has the same meaning as in section 7(3) of Part 1 of the Tax Credits Act 2002(**h**);

"standard rate" means the standard rate fixed in accordance with section 22(2) of the National Assistance Act 1948(**i**);

"trade dispute" has the same meaning as in section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992(**j**);

"week" means a period of 7 days beginning at midnight between Saturday and Sunday; and

"working tax credit" means working tax credit under section (1)(b) of the Tax Credits Act 2002.

Entitlement to full remission and payment

3.—(1) Any person of a description prescribed by regulation 4 is entitled, in accordance with the following provisions of these Regulations, to the remission of the whole amount of any charges specified in paragraph (2) which would otherwise be payable by that person ("relevant charges"), and to payment, in accordance with regulation 6, of the whole amount of the travelling expenses including, where applicable, the whole amount of the overnight accommodation expenses, referred to in paragraphs (3), (4) and (5) ("relevant travelling expenses").

(2) The specified charges for the purpose of paragraph (1) are–

(a) charges for drugs, medicines, appliances and pharmaceutical services payable in pursuance of section 69(1) of the Act(**k**); and

---

(**a**) 1992 c.4.
(**b**) 1995 c.18.
(**c**) S.I. 2002/2006.
(**d**) 1999 c.33; section 94 was amended by the Nationality, Immigration and Asylum Act 2002 (c.41), Schedule 9.
(**e**) 1948 c.29; section 26(2) was amended by section 42(3) of, and paragraph 5(5) of Schedule 9 and Schedule 10 to, the National Health Service and Community Care Act 1990 (c.19) ("the 1990 Act").
(**f**) Section 1(4) was amended by the Welfare Reform and Pensions Act 1999 (c.30), Schedule 7, paragraph 2(4), and Schedule 13, Part V.
(**g**) S.I. 1987/1969.
(**h**) See the Tax Credit (Definition and Calculation of Income) Regulations 2002 (S.I. 2002/2006) for the manner of calculation of income under section 7(3).
(**i**) Section 22(2) was amended by section 44(3) of the 1990 Act.
(**j**) 1992 c.52.
(**k**) For the applicable charges see S.S.I. 2001/430; amended by S.S.I. 2002/100 and 2003/130 and 295.

(b) charges for dental appliances and dental treatment payable in pursuance of section 70(1A)(**a**) or section 71(1)(**b**) of the Act(**c**) or of section 20(1) of the National Health Service (Primary Care) Act 1997(**d**).

(3) Paragraph (1) applies in the case of travelling expenses necessarily incurred or to be incurred by a person in attending a hospital for the purpose of availing that person of services provided under the care of a hospital consultant in pursuance of the Act, and includes the travelling expenses of a companion in a case where it is necessary on medical grounds for that person to be accompanied.

(4) Paragraph (1) applies in the case of overnight accommodation expenses necessarily incurred in obtaining such accommodation for the purpose of paragraph (3) by a person or a companion whose travelling expenses are payable by virtue of that paragraph.

(5) The travelling expenses, including as applicable overnight accommodation expenses, to be taken into account for the purposes of paragraphs (3) and (4) are to be the costs of travelling by the cheapest means of transport and of overnight accommodation in the cheapest facilities reasonably available.

Description of persons entitled to full remission and payment

4.—(1) Regulation 3(1) applies–

(a) in the case of the charges in regulation 3(2)(b)–

(i) to any person who, either, at the time the arrangements for the treatment are made or at the time the relevant charges are made, is a person described in paragraph (2); and

(ii) as respects the course of treatment to which the relevant charges relate; and

(b) in any other case to any person described in paragraph (2) who, at the time when the relevant charges are made or when the relevant travelling expenses are incurred, is a person described in paragraph (2).

(2) The persons described are–

(a) a person who is in receipt of income support;

(b) a person whose entitlement to income support is less than 10 pence;

(c) a member of the same family as a person who is in receipt of income support;

(d) a member of the same family as a person whose entitlement to income support is less than 10 pence;

(e) a person whose requirements equal or exceed his income resources and whose capital resources do not exceed the capital limit;

(f) a member of the same family as a person described in paragraph (e) of this regulation;

(g) a person who is in receipt of an income-based jobseeker's allowance;

(h) a member of the same family as a person who is in receipt of an income-based jobseeker's allowance;

(i) a person whose entitlement to an income-based jobseeker's allowance is less than 10 pence;

(j) a member of the same family as a person whose entitlement to an income-based jobseeker's allowance is less than 10 pence;

(k) a person who lives permanently in accommodation provided by a local authority under the Social Work (Scotland) Act 1968(**e**) and who has satisfied the authority that the person is unable to pay for that accommodation at the standard rate or, as the case may be, the full rate, and for the purposes of this paragraph a person lives permanently in that accommodation if it is the person's principal place of abode;

(l) an asylum-seeker for whom support is provided under Part VI of the Immigration and Asylum Act 1999;

(m) a member of the same family as a person described in paragraph (l) of this regulation; or

(n) a person who is a member of a family–

(i) one member of which, on the date entitlement is determined, is receiving–

(a) Section 70(1A) was inserted by the Health and Medicines Act 1988 (c.49) ("the 1988 Act"), section 11(4).
(b) Section 71(1) was amended by the 1988 Act, Schedule 3.
(c) For the applicable charges see S.I. 1988/464.
(d) 1997 c.46.
(e) 1968 c.49.

(aa) working tax credit and child tax credit;

(bb) working tax credit which includes a disability element; or

(cc) child tax credit, but is not eligible for working tax credit; and

(ii) where 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 £14,200.

Persons entitled to remission in part or payment in part

5.—(1) A person who is not of a description prescribed by regulation 4 and whose capital resources do not exceed the capital limit is entitled, in accordance with the following provisions of these Regulations, to the remission of part of any relevant charges or, as the case may be, payment, in accordance with regulation 6, of part of any relevant travelling expenses if at the time when the relevant charges are made or when the travelling expenses are incurred the person is–

(a) a person whose income resources exceed the person's requirements by less than a third of the relevant charges or, as the case may be, by less than the relevant travelling expenses; or

(b) a member of the same family as a person described in sub-paragraph (a) of this paragraph.

(2) This regulation applies only in respect of charges for wigs, fabric supports and surgical brassieres payable in pursuance of section 69(1) of the Act (supplied otherwise than under Part II of the Act), charges for dental appliances and dental treatment payable in pursuance of section 70(1A) or section 71(1) of the Act or of section 20(1) of the National Health Service (Primary Care) Act 1997, and any relevant travelling expenses.

(3) The amount of any relevant charges which a person is entitled by paragraph (1) to have remitted is the difference between the relevant charges and 3 times the amount by which the person's income resources exceed the person's requirements.

(4) The amount of the relevant charges for the purposes of paragraph (3) are in the case of–

(a) a charge under section 69(1) of the Act for the supply of an appliance, the charge made for that appliance;

(b) a charge–

(i) for dental treatment or for the supply of a dental appliance under Part II of the Act; or

(ii) for dental treatment under Part I of the National Health Service (Primary Care) Act 1997,

the charge made for one course of treatment, including any charge made for a dental appliance supplied in that course of treatment; or

(c) in the case of a charge for the supply of a dental appliance supplied otherwise than under Part II of the Act or under Part I of the National Health Service (Primary Care) Act 1997, the charge made for that appliance.

(5) Subject to regulation 7, the amount of the relevant travelling expenses which a person is entitled by paragraph (1) to be paid is the difference between the relevant travelling expenses incurred in any week and the amount by which the person's income resources exceed the person's requirements.

Payment of travelling expenses

6. Where a payment falls to be made under regulations 3(1) or 5(1) in respect of relevant travelling expenses, that payment shall be made–

(a) in a case where the travelling expenses are incurred or to be incurred by a person in attending a hospital which is vested in an NHS trust, by that NHS trust; or

(b) in any other case, by the Health Board.

Payment to persons resident in the Highlands and Islands

7.—(1) A person of the description prescribed in paragraph (3) who is not a person of a description prescribed by regulation 4 is entitled to payment of travelling expenses incurred or to be incurred in making a journey between the person's normal place of residence in the Highlands

and Islands and a hospital in the United Kingdom for the purpose of availing the person of services provided under the care of a hospital consultant in pursuance of the Act, provided that–

(a) the distance travelled from the person's home (or place of residence while working) to the hospital must be 30 miles or more, or involve a journey by sea of more than 5 miles; and

(b) the travelling expenses are more than £8, and the person makes a contribution of £8 towards the travelling expenses.

(2) The travelling expenses referred to in paragraph (1) include–

(a) those of the return journey; and

(b) those of a companion in a case where it is necessary on medical grounds that the person referred to in paragraph (1) should be accompanied.

(3) Paragraph (1) applies to a person who, at the time when the travelling expenses referred to in paragraph (1) are incurred, is normally resident or working on a long-term basis in the area comprising–

(a) the local government areas of Highland, Western Isles, Orkney Islands and Shetland Islands;

(b) that part of the local government area of Argyll and Bute which is the area of the former Argyll and Bute District Council and the islands of Arran, Great Cumbrae and Little Cumbrae; and

(c) in the local government area of Moray, the areas of the former parishes of Aberlour, Cabrach, Dallas, Dyke, Edinkillie, Forres, Inveravon, Kinloss, Kirkmichael, Knockando, Mortlach, Rafford and Rothes.

(4) Where a payment falls to be made under paragraph (1) in respect of travelling expenses, that payment shall be made–

(a) in a case where the travelling expenses are incurred or to be incurred by a person in attending a hospital which is vested in an NHS trust, by that NHS trust; or

(b) in any other case, by the Health Board.

Calculation of resources and requirements

8.—(1) Where it is necessary that the resources or requirements of a person, or the relationship between them, should be calculated for the purposes of these Regulations, they shall be calculated by the Scottish Ministers according to the provisions of this regulation and Schedule 1.

(2) For the purposes of paragraph (1), the resources and requirements of a person shall be calculated in the case of a claim made under–

(a) regulation 9(1), by reference to the person's resources or requirements at the date of claim; or

(b) regulation 11(2), by reference to the person's resources or requirements at the date when the relevant charges or relevant travelling expenses are paid in full,

and in each case in accordance with the provisions of these Regulations in force at that date.

(3) Unless any provision referred to in Schedule 1 specifies to the contrary, where a claimant is a member of a family–

(a) the resources of the other members of the claimant's family shall be calculated or estimated in the same manner as those of the claimant and shall be taken into account as if they were the claimant's resources; and

(b) in calculating the claimant's requirements, the requirements of the other members of the claimant's family shall be taken into account according to the provisions of Schedule 1.

(4) In a case to which paragraph (3) applies, unless the context otherwise requires, any reference to a "claimant" in Schedule 1 or in the provisions referred to in that Schedule shall be construed as including the other members of the claimant's family.

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

Claims for remission or payment

9.—(1) Subject to paragraph (2), a person who falls within sub-paragraph (a) or (b) below and who wishes to claim their entitlement under regulations 3(1) or 5(1) shall, if the person comes–

(a) within a description prescribed by regulation 4(2)(b), (d), (i) or (n), make a claim to the Scottish Ministers in writing; or

(b) within a description prescribed by regulation 4(2)(e), (f) or (k), or 5(1), make a claim to the Scottish Ministers on a form provided by or on behalf of the Scottish Ministers for that purpose,

and shall send or deliver that claim in writing or, as the case may be, that form, to the Scottish Ministers or to an office receiving and processing such claims on their behalf.

(2) Subject to paragraph (3), where a person is unable for the time being to act, a claim may be made on that person's behalf by another person.

(3) The Scottish Ministers may refuse to accept a claim made by one person on behalf of another where, in the Scottish Minister's opinion–

(a) the person on whose behalf the claim is made is able to act; or

(b) the person making the claim is not a suitable person to act on behalf of that other person.

(4) A claimant shall produce in support of a claim such evidence as the Scottish Ministers may reasonably require.

(5) The Scottish Ministers may treat any claim under paragraph (1) as a claim to entitlement in respect of all the relevant charges and relevant travelling expenses and shall calculate the resources and requirements of the claimant according to the provisions of regulation 8 and Schedule 1.

(6) If the Scottish Ministers determine that the claimant and any member of the claimant's family are entitled to any remission of the relevant charges or any payment of the relevant travelling expenses, the Scottish Ministers shall issue a notice of entitlement to the claimant which shall be effective in respect of the claimant and any member of the claimant's family for the purposes of any remission of those charges, and any payment of those travelling expenses, to which they are entitled.

(7) A notice of entitlement issued under paragraph (6) shall indicate whether the claimant and any member of the claimant's family are entitled to full or partial remission or payment and, in the case of partial remission or payment, shall specify the amount of any relevant charges or relevant travelling expenses for which there is no entitlement to remission or payment.

(8) Subject to paragraphs (9) and (11), a notice of entitlement issued under paragraph (6) shall be effective for a period of 6 months from the date of claim and shall specify the dates of commencement and expiry of that period.

(9) Subject to paragraph (11), where a claimant or the claimant's partner is a person of a description specified in column (1) of Schedule 2 and the date of claim falls within any period specified in column (1), the notice of entitlement issued under paragraph (6) to that claimant shall be effective for the period specified in column (2) of that Schedule opposite the description in column (1) of that claimant or the claimant's partner.

(10) Subject to paragraph (11), any change in the financial or other circumstances of a claimant, or of any member of the claimant's family, during the period for which a notice of entitlement has been issued shall not affect the validity of the notice of entitlement in respect of that period or, in the case of partial remission or payment, the amounts referred to in paragraph (7).

(11) A claimant who is issued with a notice of entitlement in a case of partial remission may make a further claim in accordance with paragraph (1) at any time during the period for which the notice of entitlement has been issued, if the claimant considers that by reason of a change in the claimant's financial circumstances or those of any member of the claimant's family the amount referred to in paragraph (7) should be reduced.

Notices of entitlement

10.—(1) Where a person is entitled to full remission and payment because the person is a member of a family described in regulation 4(2)(n), the Scottish Ministers shall issue a notice of entitlement to that family.

(2) Such a notice of entitlement shall apply to–

(a) any family member who is named on the notice of entitlement; and

(b) all other members of such a person's family.

(3) A notice of entitlement issued under paragraph (1) shall be effective–

(a) from such date; and

(b) for such period,

as the Scottish Ministers may determine.

(4) Any change in the financial or other circumstances of a person who is a member of a family in respect of which a notice of entitlement has been issued under paragraph (1), during the period for which the notice of entitlement has been issued, shall not affect the validity of the notice of entitlement in respect of that period.

Repayment

11.—(1) Subject to the following provisions of these Regulations, a person of a description prescribed by regulations 4 or 5(1) who pays any relevant charges or relevant travelling expenses without exercising the person's right under regulations 3(1) or 5(1) to remission or payment is entitled to be repaid whatever amount would otherwise have been remitted or paid.

(2) Subject to paragraph (3), it is a condition of the entitlement to repayment under paragraph (1) of a person of any description that the person makes a claim to the Scottish Ministers for repayment within three months after payment of the relevant charges or relevant travelling expenses (or within such further period as the Scottish Ministers may for good cause allow) and that the person makes that claim on a form provided by or on behalf of the Scottish Ministers for that purpose for persons of that description.

(3) Subject to paragraph (4), where a person is unable for the time being to act, a claim may be made on behalf of that person by another person.

(4) The Scottish Ministers may refuse to accept a claim made by one person on behalf of another where, in the Scottish Ministers' opinion–

(a) the person on whose behalf the claim is made is able to act; or

(b) the person making the claim is not a suitable person to act on behalf of that other person.

(5) It is a further condition of entitlement to repayment under paragraph (1) that the claimant produces in support of the claim such evidence as the Scottish Ministers may reasonably require.

(6) Where the Scottish Ministers are satisfied that a claimant is entitled to any repayment under paragraph (1) they shall–

(a) in the case of a repayment to be made in respect of–

(i) a relevant charges made by an NHS trust or a Health Board, other than a charge for drugs or for appliances mentioned in sub-paragraphs (a), (c) or (d) of regulation 5(1) of the National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations 2001(**a**); and

(ii) relevant travelling expenses incurred by a person in attending a hospital managed by an NHS trust or a Health Board,

authorise in writing the repayment of the amount in question to the claimant by the NHS trust or the Health Board; or

(b) in any other case, cause a repayment to be made to the claimant in such manner as appears to the Scottish Ministers to be appropriate in the circumstances of the particular case.

(7) On receipt of an authorisation given under paragraph (6)(a) the NHS trust or the Health Board shall pay the amount in question to the claimant.

Reimbursement of payments made in respect of relevant travelling expenses

12.—(1) Where a Health Board or an NHS trust ("the provider") makes a payment under regulation 3(1) or 5(1), or a repayment under regulation 8(6)(b) or (7), in respect of relevant travelling expenses incurred or to be incurred by a person who is receiving services from the provider under the terms of an NHS contract the amount of the payment or repayment in question shall be reimbursed to the provider by the Health Board which has responsibility for the health care of that person.

(a) S.S.I. 2001/430.

(2) In this regulation the expression "Health Board which has responsibility for the health care of that person" has the meaning indicated by article 2 of the Functions of Health Boards (Scotland) Order 1991(**a**).

Transitional provisions

13. Where, before the date of coming into force of these Regulations–

(a) a person had claimed for the remission, in whole or in part, of any relevant charges or the payment, in whole or in part, of any relevant travelling expenses under the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 1988(**b**) ("the 1988 Regulations") and the claim has not been determined, the claim shall be determined in accordance with the provisions of the 1988 Regulations as though they and the other instruments revoked by these Regulations, remained in force;

(b) a person was entitled to but had not made such a claim under the 1988 Regulations, that person may make a claim, and the claim shall be determined in accordance with the provisions of these Regulations provided that does not cause that person any financial detriment compared to the position he would have been in had his claim been determined in accordance with the provisions of the 1988 Regulations, and if it does cause such financial detriment his claim will be determined in accordance with the provisions of the 1988 Regulations as though they and the other instruments revoked by these Regulations, remained in force; and

(c) a person has been issued with any document which gives an entitlement to such a remission under the 1988 Regulations in respect of a period or course of treatment which period or course of treatment continues after that date, the document shall continue to be effective in respect such a remission or payment for the said period or course of treatment in accordance with the provisions of the 1988 Regulations as though they and the other instruments revoked by these Regulations, remained in force.

Revocations

14. The Regulations specified in Schedule 3 are revoked.

MALCOLM CHISHOLM
A member of the Scottish Executive

St Andrew's House,
Edinburgh
1st August 2003

(a) S.I. 1991/570.
(b) S.I. 1988/546.

Regulation 8

SCHEDULE 1

PART I

CALCULATION OF RESOURCES

1. A claimant's resources shall be calculated in terms of income and capital and shall be calculated as follows:–

(a) income shall be calculated on a weekly basis according to the method of calculating or estimating income as prescribed by the provisions of Part V of, and Schedules 8 and 9 to, the Income Support (General) Regulations 1987(**a**) subject to the modifications referred to in paragraph 2; and

(b) capital shall 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 (General) Regulations 1987 subject to the modifications referred to in paragraph 2.

2. The provisions of the Income Support (General) Regulations 1987 shall be applied as follows:–

(a) as respects the provisions specified in column 1 of Table A in this Schedule, in accordance with the modifications specified in the corresponding entries in column 2;

(b) as if–

(i) references to income support were to the remission of any relevant charges and the payment of any relevant travelling expenses,

(ii) references to an adjudication officer were to the Scottish Ministers, and

(iii) references in any of those provisions to any other of those provisions were to that other provision as modified in accordance with this paragraph;

(c) according to the provisions of regulation 2 of those Regulations (interpretation) but as if there were inserted after the definition of "relative"–

""relevant date" means–

(a) in the case of a claim made under regulation 9(1) of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 2003, the date of claim; and

(b) in the case of a claim made under regulation 11(2) of those Regulations, the date when the claimant paid the relevant charge or travelling expenses";

(d) as if the Social Security (Income Support and Claims and Payments) Amendment Regulations 1995(**b**) and the Income Support (General) Amendment and Transitional Regulations 1995(**c**) had not been made.

(a) S.I. 1987/1967.
(b) S.I. 1995/1613.
(c) S.I. 1995/2287.

TABLE A

MODIFICATION OF PROVISIONS OF THE INCOME SUPPORT (GENERAL) REGULATIONS 1987 FOR THE PURPOSES OF PART 1 OF THIS SCHEDULE

Column 1 *Regulation or Schedule*	*Column 2* *Modification*
regulation 23(**a**)	As if in paragraph (1) for "section 22(5) of the Act" there were substituted "regulation 8(3) of the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 2003".
regulation 25	As if for the whole of regulation 25 (liable relative payments) there were substituted– "**25.**—(1) Where a claimant's income consists of any payments made by a person, whether under a court order or not, for the maintenance of himself or any member of his family, and those payments are made or due to be made at regular intervals, his normal weekly income from those payments shall be determined– (a) if before the relevant date those payments are made at regular intervals and in regular amounts, by reference to the normal weekly amount; or (b) if they are not so made, by reference to the average amount. (2) Any maintenance payment other than one to which paragraph (1) of this regulation applies shall be treated as capital.".
regulation 28	As if in paragraph (1) the words from "For the purposes" to "income support)" were omitted; and in paragraph (1)(a) for "the weekly amount of his income" there were substituted "the normal weekly amount of his income at the relevant date".
regulation 29	As if this regulation were omitted.
regulation 30(**b**)	As if in paragraph (1) the words "Except where paragraph (2) applies" were omitted; and paragraph (2) were omitted. As if in sub-paragraph (1)(a) at the beginning there were inserted the words "except where sub-paragraph (b) or (c) applies,". As if in sub-paragraph (1)(b) at the beginning there were inserted the words "except where sub-paragraph (c) applies,".

(**a**) Amended by S.I. 1998/1228 regulation 6.
(**b**) Amended by S.I. 1993/2119, regulation 11.

Column 1 *Regulation or Schedule*	*Column 2* *Modification*
	As if after sub-paragraph (1)(b) the words "or" and the following new sub-paragraph were inserted– "(c) where the claimant provides in respect of the employment a profit and loss account and, where appropriate, a trading account or a balance sheet or both, and the profit and loss account is in respect of a period of at least 6 months but not exceeding 15 months and that period terminates within the twelve months preceding the date of claim or, as the case may be, the date when he paid the relevant charge or travelling expenses, over that period.". As if after paragraph (1) the following new paragraph were inserted– "(1A) In paragraph (1)(c)– (a) "balance sheet" means a statement of the financial position of the employment disclosing its assets, liabilities and capital at the end of the period in question; (b) "profit and loss account" means a financial statement showing the net profit or loss of the employment for the period in question; and (c) "trading account" means a financial statement showing the revenue from sales, the cost of those sales and the gross profit arising during the period in question.".
regulation 31	As if this regulation were omitted.
regulation 32(**a**)	As if in paragraph (1) for the words from "regulation 29" to paragraphs (2) to (7) there were substituted "regulation 28 (calculation of income)"; and paragraphs 5(2) to (7) were omitted.
regulation 35	As if in paragraph 1(d) the words after "employment" were omitted.
regulation 36	As if in paragraph (1) for "regulation 29 (calculation of earnings of employed earners)" there were substituted "regulation 28 (calculation of income)".
regulation 38(**b**)	As if in paragraph (3) for the words "paragraph (9)" there were substituted the words "paragraph (3A) or (9)".

(a) Amended by S.I. 1988/663, regulation 15 and 1989/1323, regulation 10.
(b) Amended by S.I. 1988/663, regulation 17.

Column 1 *Regulation or Schedule*	*Column 2* *Modification*
	As if after paragraph (3) there were inserted– "(3A) For the purpose of paragraph (1)(a), in a case where earnings of the employment are calculated over a period determined under regulation 30(1)(c), the net profit of the employment shall, except where paragraph (9) applies, be calculated by taking into account the earnings of the employment relevant to that period (whether or not received in that period), less– (a) subject to paragraphs (5) to (7), any expenses relevant to that period (whether or not defrayed in that period) and which were wholly and exclusively incurred for the purposes of that employment; and (b) an amount in respect of– (i) income tax; (ii) social security contributions payable under the Social Security Contributions and Benefits Act 1992(**a**), calculated in accordance with regulation 39 (deduction of tax and contributions for self-employed earners); and (iii) one half of any premium paid in the period that is relevant under regulation 30 in respect of a retirement annuity contract or a personal pension scheme.". As if in paragraph (4) after the word "shall" there were inserted the words ", except where paragraph (4A) or (9) applies,". As if after paragraph (4) there were inserted the following new paragraph– "(4A) For the purposes of paragraph (1)(b), in a case where earnings of the employment are calculated over a period determined under regulation 30(1)(c), the net profit of the employment shall, except where paragraph (9) applies, be calculated by taking into account the earnings of the employment relevant to that period (whether or not received in that period) less, subject to paragraphs (5) to (7), any expenses relevant to that period (whether or not defrayed in that period) and which were wholly or exclusively incurred for the purposes of that employment.". As if in paragraphs (5), (6), (7)(**b**) and (8) for the words "paragraph (3)(a) or (4)" there were substituted the words "paragraphs (3)(a), (3A)(a), (4) or (4A), as the case may be,".

(**a**) 1992 c.4.
(**b**) Amended by S.I. 1999/3178, Schedule 5, paragraph 2.

Column 1 *Regulation or Schedule*	*Column 2* *Modification*
regulation 40(**a**)	As if in paragraph (1) for "regulation 29 (calculation of earners of employed earners)" there were substituted "regulation 28 (calculation of income)".
regulation 41(**b**)	As if in paragraph (1) for the words from "on (a) the first day" to "the date of that supersession" there were substituted "at (a) the relevant date"; and paragraphs (3) and (4) were omitted.
regulation 42(**c**)	As if in paragraph (4) the words from "and in the case" to "(trade disputes) applies" were omitted.
regulation 44(**d**)	As if in paragraph (1) for the words from "on (a) the first day" to "the date of that supersession," there were substituted "at the relevant date"; and paragraphs (2), (3), (8) and (9*)* were omitted.
regulation 45	As if this regulation were omitted.
regulation 46(**e**)	As if in paragraph (1) the words from "For the purposes" to "income support" were omitted.
regulation 48(**f**)	As if in paragraph (2) the words from "Except" to "applies", were omitted; in paragraph (5) the words "Subject to paragraph (6)" were omitted; and paragraphs (6) and (10)(a) and (b) were omitted.
regulation 49(**g**)	As if in sub-paragraph (b)(i) for the words from "first day" to "the date of that supersession," there were substituted "relevant date".
regulation 53	As if in paragraph (3) the reference to regulation 60 were a reference to regulation 25. As if in paragraph (1A) for "£10,000" on each occasion it appears there were substituted "£12,000" and as if for "£16,000" there were substituted "£19,500".
regulations 54 to 60	As if these regulations were omitted.
regulation 61	As if, in the case of a student supported by the Student Awards Agency for Scotland, in the definition of "academic year", for "1st September" there were substituted "1st August".
regulation 62	As if in paragraph (3) from the beginning to the words "shall be apportioned" there were substituted "Subject to paragraph (3A), a student's grant income shall be apportioned". As if in paragraph (3A) the words "under the provisions referred to in paragraph (3)" and the words "or, if there are 53 benefit weeks (including part-time weeks) in the year, 53" were omitted. As if paragraph (3B) were omitted.

(a) Amended by S.I. 1988/2002, regulation 9.
(b) Amended by S.I. 1999/3178, Schedule 5, paragraph 3 and 2000/2545, regulation 2(1)(a).
(c) Regulation 4 was amended by S.I. 1988/663, regulation 19, 1988/1445, regulation 10, 1989/534, Schedule 1, paragraph 7, 1991/1559, regulation 8, 1993/315, Schedule, paragraph 2, 1994/527, regulation 4, 1995/2792, regulation 6(2), 1995/3282, regulation 2 and 1999/2640, regulation 2(1).
(d) Amended by S.I. 1998/3178, Schedule 5, paragraph 5.
(e) Amended by S.I. 1988/2022, regulation 10.
(f) Paragraph (2) was amended by S.I. 1988/1445, regulation 11.
(g) S.I. 1999/3178, Schedule 5, paragraph 6.

Column 1 *Regulation or Schedule*	*Column 2* *Modification*
regulation 63	As if in paragraph (2) the words "or, if there are 53 benefit weeks (including part-time weeks) in the year, 53" were omitted.
regulation 64	As if in paragraph (1)(c) the words, "or, if there are 53 benefit weeks (including part-time weeks) in the year, 53" were omitted.
regulation 65(**a**)	As if for the words "No part" there were substituted the words "(1) Subject to paragraph (2) below, no part". As if the following paragraph were added to the regulation– "(2) For the purposes of this regulation and paragraph 15 of Schedule 9 "voluntary payment" shall not include any payment made by a person whose income a Minister of the Crown or an education authority– (a) would take into account in assessing the amount of a student's grant or student's loan if an application for it were to be made; or (b) has taken into account in assessing the amount of a student's grant or student's loan and which is in excess of contributions as assessed by a Minister of the Crown or an education authority.".
regulation 66A	As if for paragraph (2) there were substituted– "(2) In calculating the weekly amount of the loan to be taken into account as income– (a) except where sub-paragraph (b) applies, the loan shall be apportioned equally between the 52 weeks in the academic year; or (b) in the case of a loan which is payable in respect of the final academic year of the course or if the course is only of one academic year's duration, in respect of that year the loan shall be apportioned equally between the weeks in the period beginning with the start of the final academic year, or as the case may be, the single academic year and ending with the last day of the course, and, in the case of a person to whom paragraph (2A), (2B) or (2C) applies, from the weekly amount so apportioned there shall be disregarded £10.". As if after paragraph (2) there were inserted the following paragraphs:– "(2A) This paragraph applies to a student whose applicable amount includes any premium specified in Parts II and III of Schedule 2. (2B) This paragraph applies where the claimant is a student to whom paragraph 12 of Schedule 1B to these Regulations applies.

(a) Amended by S.I. 1996/462.

Column 1 *Regulation or Schedule*	*Column 2* *Modification*
	(2C) This paragraph applies where the student is a partner of a claimant and the claimant is not also a student.".
Schedule 8(**a**)	As if in paragraph 4(2) after the words "disability premium" the words "or higher pensioner premium" were inserted. As if sub-paragraphs (3), (4), and (7) of paragraph 4 were omitted. As if paragraph 6 were omitted. As if in paragraph 7(1)(**b**), for the words "none of paragraphs 4 to 6B", there were substituted the words "neither of paragraphs 4 or 5". As if in paragraph 8(**c**) the words "part time" were omitted. As if there were inserted after paragraph 8 the following paragraph– "**8A**. In a case in which none of paragraphs 4 to 8 applies to the claimant and he is one of a married or unmarried couple and a member of that couple is engaged in employment, £10; but if this paragraph applies to a claimant it shall not apply to his partner except where, and to the extent that, the earnings of the claimant which are disregarded under this paragraph are less than £10.". As if in paragraph 9 for "8" there were substituted "8A". As if paragraphs 10, 13 and 16 were omitted.
Schedule 9	As if in paragraph 15(**d**) the references to paragraph 37 were omitted in sub-paragraph (1); and sub-paragraph (3)(b) were omitted. As if in paragraph 16(**e**) for the words "paragraphs 36 and 37" there were substituted "paragraph 36". As if in paragraph 21(1)(**f**) the words from "or in the case" to "applies" were omitted. As if in paragraph 28(**g**) the words from "Except" to "return to work)" were omitted. As if for sub-paragraph (1) of paragraph 29 the following sub-paragraph was substituted–

(a) Amended by S.I. 2001/3767, regulation 2(1) and Schedule.
(b) Amended by S.I. 1993/315, regulation 8 and S.I. 2000/2545, regulation 3 and Schedule, paragraph 2.
(c) Amended by S.I. 2000/2545, regulation 3 and Schedule, paragraph 2.
(d) Amended by S.I. 1993/2119, regulation 23, 1996/462, regulation 8 and 2002/2442, regulation 3.
(e) Amended by S.I. 1995/2792, regulation 2 and 2002/841, regulation 2.
(f) S.I. 2000/636, regulation 3(12).
(g) S.I. 1988/663, regulation 35, 1989/1034, regulation 12, 1992/468, Schedule, paragraph 9 and 2001/3070, article 3(2) and Schedule 1, paragraph (c).

Column 1 *Regulation or Schedule*	*Column 2* *Modification*
	"(1) Subject to sub-paragraph (2), any payment received under an insurance policy taken out to insure against the risk of being unable to maintain payments of housing costs which qualify under paragraph 17(1)(zb) or (zc) of Schedule 3 or for repairs or improvements to the dwelling occupied as the home to the extent that it is used to meet– (a) repayments of unsecured loans for the purpose of carrying out repairs and improvements to the dwelling occupied as the home; (b) any amount due by way of premiums on that policy.".
Schedule 10	As if in paragraph 17(**a**) for the words from "Except" to "payment" there were substituted the words "Any payment".

PART II

CALCULATION OF REQUIREMENTS

3.—(1) A claimant's requirements shall be calculated as being the amount referred to in head (a) below less, where applicable, the amount referred to in head (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 the claimant's family, in connection with a claim for income support as specified by the provisions of regulations 17, 18 and 21 of, and Schedules 2, 3, and 7 to, the Income Support (General) Regulations 1987(**b**), but subject to the modifications referred to in paragraph 2(b) and (c) and paragraph 4; and

(ii) subject to sub-paragraph (2), the weekly amount of any council tax which the claimant or the claimant's partner is liable to pay under Part I or Part II of the Local Government Finance Act 1992(**c**);

(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 the claimant's family is entitled under the provisions of Part VII of the Social Security Contributions and Benefits Act 1992(**d**).

(2) Subject to sub-paragraph (3), where a claimant is jointly and severally liable for council tax in respect of a dwelling in which the claimant is resident with one or more other persons, the claimant's liability in respect of that tax for the purposes of these Regulations shall be the amount of that tax divided by the number of persons who are jointly and severally liable for that tax.

(3) Sub-paragraph (2) shall not apply where a claimant is jointly and severally liable for council tax in respect of a dwelling with only the claimant's partner.

4. The provisions of the Income Support (General) Regulations 1987 specified in column (1) of Table B in this Schedule shall be applied–

(a) in accordance with the modifications specified in the corresponding entries in column (2); and

(b) as if the Social Security (Income Support and Claims and Payments) Amendment Regulations 1995(**e**) and the Income Support (General) Amendment and Transitional Regulations 1995(**f**) had not been made.

(**a**) Amended by S.I. 1988/663, regulation 36, 1989/1034, regulation 12 1992/468, Schedule, paragraph 10 and 2001/3070, article 3(2) and paragraph (c) of Schedule 1.
(**b**) S.I. 1987/1967.
(**c**) 1992 c.14.
(**d**) 1992 c.4; Part VII was amended by the Local Government Finance Act 1992, section 103 and Schedule 9 which replaced references to community charge benefit with reference to council tax benefit.
(**e**) S.I. 1995/1613.
(**f**) S.I. 1995/2287.

TABLE B

MODIFICATIONS OF PROVISIONS OF THE INCOME SUPPORT (GENERAL) REGULATIONS 1987 FOR THE PURPOSES OF PART II OF THIS SCHEDULE

Column 1 *Regulation or Schedule*	*Column 2* *Modification*
regulation 3(**a**)	As if in paragraph (1) the words "or with whom a claimant normally resides" were omitted. As if in paragraph (2B) the words "Subject to paragraph (2C)," were omitted. As if paragraph (2C) were omitted.
regulation 17(**b**)	As if for the words from "18 to 22A" to "urgent cases)" there were substituted "18 to 21"; and as if sub-paragraphs (bb) and (g) of paragraph (1) were omitted.
regulation 18(**c**)	As if for the words from "19 to 22" to "urgent cases)" there were substituted "19 and 21"; and as if sub-paragraphs (cc) and (h) of paragraph (1) were omitted.
regulation 21(**d**)	As if in paragraph (1) the words from "Subject to" to "amounts)" were omitted. As if in paragraph (3) the definition of "residential accommodation" were omitted. As if paragraphs (3A), (4) and (4A) were omitted.
Schedule 2	As if in column (1) of the Table in paragraph 1, for heads (b) and (c) of sub-paragraphs (1) and (2) there were substituted the following heads in each of those subparagraphs– "(b) less than 18 and in respect of whom an amount is applicable under Schedule 3; (c) less than 18 who– (i) satisfies the condition in paragraph 11; (ii) is undergoing youth training; or (iii) is in remunerative work;". As if in column (1) of the Table in paragraph 1, for sub-paragraph (3) there were substituted– "(3) Couple– (a) except where head (b) applies, where both members are aged less than 18; (b) where both members are aged less than 18 and–

(a) Paragraph (1) was amended by S.I. 1991/2334, regulation 2 and 1994/3061, regulation 2(2).
(b) The words "18 to 22A" were inserted by S.I. 1996/206, regulation 9.
(c) The number "21" was inserted by S.I. 2001/3767, regulation 2 and Schedule, and "to 22A" were inserted by S.I. 1996/206, regulation 10.
(d) Amended by S.I. 1994/2139, regulation 3.

Column 1 *Regulation or Schedule*	*Column 2* *Modification*

(i) at least one of them is undergoing youth training;

(ii) at least one of them is in remunerative work;

(iii) in respect of at least one of them an amount is applicable under paragraph 2;

(iv) at least one of them satisfies the conditions in paragraph 11; or

(v) in respect of at least one of them an amount is applicable under Schedule 3;

(c) where one member is aged not less than 18; or

(d) where both members are aged not less than 18.".

As if in column (2) of the Table in paragraph 1, head (e) were omitted.

As if in column (1) of that Table for both sub-paragraphs (1)(c) and (2)(c)(**a**) there were substituted in each case the following sub-paragraph–

"(c) less than 18 who–

(i) satisfies the condition in paragraph 11;

(ii) is undergoing youth training; or

(iii) is in remunerative work;".

As if paragraph 1A were omitted.

As if in paragraph 2–

(a) in sub-paragraph (1) the words "for the relevant period specified in column (1)" were omitted;

(b) For column (1) of the table there were substituted– "Persons aged–

(a) less than 16 years; or

(b) not less than 16 years but less than 19 years."; and

(c) sub-paragraph (2) were omitted.

As if paragraph 2A were omitted.

As if in paragraph 3–

(a) in sub-paragraph (1)(a) the words "to whom the conditions in both sub-paragraphs (2) and (3) apply" were omitted; and

(a) Paragraphs (1) and (2) were amended by S.I. 1996/206, regulation 23 and Schedule 2.

Column 1 *Regulation or Schedule*	*Column 2* *Modification*
	(b) sub-paragraphs (2) to (7) were omitted. As if paragraphs 9 and 9A were omitted. As if for paragraph 10 there were substituted– "**10.**—(1) Where the claimant is a single claimant or a lone parent, the condition is that he is aged not less than 60. (2) Where a claimant has a partner, the condition is that he or his partner is aged not less than 60.". As if for sub-paragraph (b) of paragraph 11 there were substituted– "(b) where the claimant has a partner and both are aged less than 60 and the additional condition specified in paragraph 12 is satisfied by at least one of them;". As if in paragraph 12(1)(a)(i)(**a**)– (a) for the words "long term incapacity benefit" the first time they appear, there were substituted the words "incapacity benefit, where the claimant or partner has been in receipt of that benefit for at least 28 weeks,"; and (b) the words from "but, in the case" to the end were omitted. As if in paragraph 12(1)(b)(**b**)– (a) after the words "the claimant" there were inserted the words "or, as the case may be, his partner"; and (b) for sub-head (ii) there were substituted the following sub-head– "(ii) has been so entitled or so incapable for a continuous period of at least 28 weeks;". As if in paragraph 12 sub-paragraphs (1)(c) and (4) were omitted. As if in paragraph 13(2)(a)(ii) and (2)(b)(iii)(**c**) for the words "normally residing with him or with whom he is normally residing" there were substituted the words "residing with him". As if in paragraph 15 sub-paragraphs (2) and (2A) were omitted.
Schedule 3	As if in paragraph 1– (a) in sub-paragraph (1)(b) for the words "paragraphs 15 to 17" there were substituted the words "paragraph 17";

(a) Paragraph 12(1)(a)(i) was amended by S.I. 1991/2742, regulation 11, 1994/2139, regulation 30, 1995/482, regulation 16 and 1999/2566, regulation 2(2) and Schedule 2, Part II.
(b) Relevant amending instrument is S.I. 1995/482.
(c) Paragraph 13(2)(a)(ii) and (2)(b)(iii) was amended by S.I. 1994/3061, regulation 2(3).

Column 1 *Regulation or Schedule*	*Column 2* *Modification*
	(b) for sub-paragraph (2), the following sub-paragraph were substituted– "(2) In this Schedule "period of study" has the meaning specified in regulation 61 (student interpretation)."; and (c) for sub-paragraph (3) there were substituted– "(3) For the purposes of this Schedule a disabled person is a person– (a) (i) who satisfies a condition specified in paragraph 12(1)(a) or (b) of Schedule 2; and (ii) whose capital does not exceed the capital limit; (b) (i) who is aged 75 or over; and (ii) whose capital does not exceed the capital limit; or (c) in respect of whom a disabled child premium is included in his applicable amount or the applicable amount of a person living with him.". As if in paragraph 2– (a) in sub-paragraph (1) for head (c) the following head were substituted– "(c) he in practice shares the housing costs with other members of the household where no member of that household who is liable to meet those costs is a close relative of the claimant or his partner and it is reasonable in the circumstances that the claimant should be treated as sharing responsibility for those costs."; and (b) sub-paragraph (2) were omitted. As if in paragraph 3– (a) sub-paragraphs (8) to (10) were omitted; (b) in sub-paragraph (11)(c)(ix) the words "other than a person to whom sub-paragraph (8) applies" were omitted; and (c) in sub-paragraph (12) for the words "not exceeding" there shall be substituted the words "which is not likely to exceed". As if for paragraph 4 the following paragraph were substituted– "**Housing costs not met under this Schedule** **4.** No amount may be met under the provisions of this Schedule where the claimant is in accommodation which is a

Column 1 *Regulation or Schedule*	*Column 2* *Modification*
	residential care home or a nursing home except where he is in such accommodation during a temporary absence from the dwelling he occupies as his home and, in so far as they relate to temporary absences, the provisions of paragraph 3(11) and (12) apply to him during that absence.".
	As if paragraphs 6 to 16 were omitted.
	As if in paragraph 17–
	(a) in the cross heading for the word "Other" there were substituted the word "Qualifying";
	(b) in sub-paragraph (1)–
	(i) the following new heads were inserted immediately before head (a)–
	"(za) any periodical payment which a person is liable to make by way of rent in respect of the dwelling he occupies as his home;
	(zb) payments of interest and capital–
	(i) of a mortgage or loan secured on the dwelling occupied as the home;
	(ii) under a hire purchase agreement or other loan to buy the dwelling occupied as the home; and
	(iii) in respect of a loan taken out to adapt the dwelling occupied as the home for the special needs of a disabled person;
	(zc) payments in respect of an endowment policy in connection with the purchase of the dwelling occupied as the home;"; and
	(ii) head (f) were omitted;
	(c) in sub-paragraph (2)–
	(i) for the words from "Subject to" to "amounts" there shall be substituted the words "Subject to sub-paragraphs (3), (3A) and (3B), the deductions to be made from the weekly amounts in respect of the housing costs specified in heads (za) and (a) to (e) of sub-paragraph (1)";
	(ii) in head (a) the words from "unless the claimant" to the end of the head shall be omitted; and
	(iii) head (c) shall be omitted;
	(d) in sub-paragraph (3) at the beginning there shall be inserted the words "Subject to sub-paragraphs (3A) and (3B),"; and

Column 1 *Regulation or Schedule*	*Column 2* *Modification*
	(e) after sub-paragraph (3) there shall be inserted the following new sub-paragraphs– "(3A) Subject to sub-paragraph (3B), where arrangements are made for the housing costs mentioned in heads (za) and (a) to (e) of sub-paragraph (1) payable in respect of a period of study, to be paid irregularly, or so that– (a) no such costs are payable for or collected in the Christmas or Easter vacations within a period of study; or (b) the costs in respect of the Christmas or Easter vacations within a period of study vary from those in the rest of that period of study, the weekly amount shall be the amount payable in respect of a period of study divided by the number of weeks in that period of study. (3B) Where housing costs, to be calculated in accordance with sub-paragraph (3A), are subject to a deduction in accordance with sub-paragraph (2)(a) or (b), as the case may be, the weekly amount of the deduction shall be the proportion of the deduction calculated in accordance with sub-paragraph (2)(a) or (b), as the number of weeks in the period of study, excluding Christmas and Easter vacations, bears to the number of weeks in the period of study.".
	As if in paragraph 18, in sub-paragraph (7)– (a) head (e) were omitted; and (b) for head (f) the following head were substituted– "(f) to whom paragraph (2B) of regulation 3 (definition of non-dependant) would apply;".
Schedule 7	As if the references in paragraph 1 to sub-paragraph (g) of regulation 17(1) and sub-paragraph (h) of regulation 18(1)(**a**) were omitted. As if paragraphs 7, 9(b)(iii), 10A, 10B, 10C, 13 and 17 were omitted. As if after paragraph 10 there were inserted the following paragraph–
"**10ZA.** A claimant who is a lone parent who is in a residential care home or nursing home temporarily.	**10ZA.** Any amount applicable to the claimant under paragraph 1(1)(a), (b) and (c) of Schedule 4, determined as if he were a single claimant, plus– (a) in respect of each child who is a member of his family, the appropriate amount in respect of him prescribed in paragraph 2(a) or (b) of Schedule 2

(a) Regulations 17(1) and 18(1) were amended by S.I. 2002/668, article 16(7) and Schedule 4.

Column 1 *Regulation or Schedule*	*Column 2* *Modification*
	or under this Schedule as appropriate; and (b) any amount which would be applicable to the claimant, if he were not temporarily living away from home, under regulation 17(1)(c) or (f) or (d) in so far as it relates to the lone parent premium under paragraph 8 of Schedule 2.”.

Regulation 9(9)

SCHEDULE 2

PERIODS OF VALIDITY OF NOTICES OF ENTITLEMENT

(1) *Description of claimant or his partner and period in which claim made*	*(2)* *Period of effectiveness of notice of entitlement*
1. A person whose entitlement to income support is less than 10p.	6 months from the date on which income support would have been payable if any had been payable.
2. A person in receipt of disability working allowance whose capital does not exceed £8,000.	The period starting on the date of claim and ending on the expiry of the award of disability working allowance.
3. A person who is not, and does not have a partner who is, engaged in remunerative work and who– (a) is aged 60 or over; or (b) is entitled to a disability premium determined in accordance with paragraphs 11 and 12 of Schedule 2 to the Income Support (General) Regulations 1987(**a**).	12 months from the date of claim.
4. A person who is not, and does not have a partner who is, engaged in remunerative work as an employed earner and who is engaged in remunerative work as a self-employed earner who has earnings as a self-employed earner calculated in accordance with the provisions of regulation 30(1) of the Income Support (General) Regulations 1987(**b**) as modified for the purposes of these Regulations in Table A of Part I of Schedule 1.	13 months from the date of claim.
5. A full-time student who is, or whose partner is, engaged in remunerative work, and the claim is made during a period of study falling within the final or only year of that student's course.	The period starting on the date of claim and ending– (a) 6 months after that date; or (b) on the last day of the course of study, whichever is the earlier.
6. A full-time student who is not, and whose partner is not, engaged in remunerative work and the claim is made during a period of study falling within the final or only year of that student's course.	The period starting on the date of claim and ending on the last day of the course.

(a) S.I. 1987/1967; relevant amending instruments are S.I. 1988/663 and 2022, 1989/1678, 1991/2742, 1994/2139, 1995/482, 516 and 2303, 1998/2002 and 2231 and 1999/2556 and 2566.
(b) Relevant amending instrument is S.I. 1993/2119.

7. A full-time student who is not, and whose partner is not, engaged in remunerative work, and the claim is made during a period of study falling outside the final or only year of that student's course.	The period starting on the date of claim and ending– (a) 1 month later than the first day of the next period of study; or (b) 6 months after that date, whichever is the later.
8. A person whose entitlement to an income-based jobseeker's allowance is less than 10 pence.	6 months from the date on which an income-based jobseeker's allowance would have been payable if it had been payable.
9. A person who lives in accommodation provided a care home service provider or by a local authority under the Social Work (Scotland) Act 1968(**a**).	12 months from the date of claim.
10. A relevant child within the meaning of section 23A of the Children Act 1989 whom a responsible local authority is supporting under section 23B(8) of that Act.	12 months or until the child's 18th birthday whichever is longer.

NOTE: For the purposes of this Schedule–

"employed earner" and "self-employed earner" shall be construed in accordance with section 2(1) of the Social Security Contributions and Benefits Act 1992(**b**);

"period of study" has the meaning assigned to it by regulation 61 of the Income Support (General) Regulations 1987 ("the 1987 Regulations")(**c**);

"remunerative work" has the meaning assigned to it by regulation 5(1) of the 1987 Regulations(**d**); and

"full-time student" has the meaning assigned to it by regulation 61 of the 1987 Regulations(**e**).

(a) 1968 c.49.
(b) 1992 c.4.
(c) Relevant amending instrument is S.I. 1993/2119.
(d) Relevant amending instruments are S.I. 1988/663, 1445 and 2022, 1989/1323, 1990/547, 1991/1559, 1992/468, 1993/2119 and 1995/516.
(e) S.I. 1987/1967 as amended by S.I. 1996/1944, 2000/1922, 2000/1981.

Regulation 14

SCHEDULE 3

REVOCATIONS

1. The National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 1988 S.I. 1988/546

2. The National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Amendment Regulations 1990 S.I. 1990/551

3. The National Health Service (Travelling Expenses and Remission of Charges) (Modification of Time Limit) (Scotland) Regulations 1990 S.I. 1990/917

4. The National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Amendment (No. 2) Regulations 1990 S.I. 1990/1665

5. The National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Amendment Regulations 1991 S.I. 1991/575

6. The National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Amendment Regulations 1992 S.I. 1992/754

7. The National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Amendment Regulations 1993 S.I. 1993/642

8. The National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Amendment (No. 2) Regulations 1993 S.I. 1993/2049

9. The National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Amendment Regulations 1995 S.I. 1995/700

10. The National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Amendment Regulations 1996 S.I. 1996/429

11. The National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Amendment (No. 2) Regulations 1996 S.I. 1996/2391

12. The National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Amendment Regulations 1997 S.I. 1997/1012

13. The National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Amendment (No. 2) Regulations 1997 S.I. 1997/2455

14. The National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Amendment Regulations 1998 S.I. 1998/2772

15. The National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Amendment Regulations 1999 S.S.I. 1999/63

16. The National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Amendment Regulations 2000 S.S.I. 2000/79

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide in respect of persons specified in the regulations, for the remission or repayment of the whole or part of certain charges which would otherwise be payable by those persons under the National Health Service (Scotland) Act 1978 ("the Act") and the National Health Service (Primary Care) Act 1997 ("the 1997 Act"). They also provide in respect of persons specified in the regulations, for the payment, as set out, of certain travelling expenses, including those of the person's companion, and certain costs of overnight accommodation for the person and their companion.

Regulation 3 provides for full remission of charges for drugs, medicines, appliances and pharmaceutical services in pursuance of section 69(1) of the Act, charges for dental appliances and dental treatment in pursuance of section 70(1A) or section 71(1) of the Act or of section 20(1) of the 1997 Act and the payment of the travelling expenses, to persons qualifying under regulation 4.

Regulation 4 describes the various qualifications which entitle persons to remission of charges and/or payment of travelling expenses.

Regulation 5 provides for the partial remission of charges for wigs, fabric supports and surgical brassieres in pursuance of section 69(1) of the Act, charges for dental appliances and dental treatment in pursuance of section 70(1A) or section 71(1) of the Act or of section 20(1) of the 1997 Act and relevant travelling expenses, to persons who meet the relevant criteria.

Regulation 6 provides for when payment is to be made by either an NHS trust or a Health Board.

Regulation 7 provides for the payment of expenses to persons living or working in specific parts of Scotland who attend hospitals in the United Kingdom and who do not otherwise qualify under regulation 4.

Regulation 8 provides the method of calculation of the resources or requirements of a person who makes a claim for full or partial remission of charges or payment of travelling expenses.

Regulation 9 provides the procedure for processing claims for remission or payment by the Scottish Ministers and for the issue of a notice of entitlement to a person.

Regulation 10 provides for the issue by the Scottish Ministers of a notice of entitlement to a person, and to the family members of that person where they are entitled to full remission and payment in terms of regulation 4(2)(n).

Regulation 11 provides for the repayment of relevant charges or travelling expenses to persons entitled to remission or payment who had paid the relevant charges or incurred the travelling expenses.

Regulation 12 provides for the reimbursement of payments or repayments made under a Health Board or NHS Trust which is providing treatment under an NHS Contract by the Health Board responsible for the healthcare of the person receiving treatment.

Regulation 13 makes transitional provisions relating to applications and remissions under previous Regulations.

Regulation 14 gives effect to the revocation of the Regulations as listed in Schedule 3.

Schedule 1 sets out in detail the method of calculation of the income and capital of claimants.

Schedule 2 sets out the period of validity of notices of entitlement under regulation 9(11).

SCOTTISH STATUTORY INSTRUMENTS

2003 No. 376

NATIONAL HEALTH SERVICE

The National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 2003

ISBN 0-11-062417-3

9 780110 624174

£4.50

© Crown Copyright 2003

Printed in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, the Queen's Printer for Scotland
400 08/03 19593