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STATUTORY INSTRUMENTS

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**2002 No. 2353**

**NATIONAL HEALTH SERVICE, ENGLAND**

**The National Health Service (Miscellaneous  
Dental Charges Amendments) Regulations 2002**

*Made* - - - - *11th September 2002*  
*Laid before Parliament* *11th September 2002*  
*Coming into force* - - *1st October 2002*

The Secretary of State for Health, in exercise of the powers conferred on him by sections 37(1C), 78(1A), 79(2), 79A, 82, 83A and 126(4) of, and paragraph 2(6) of Schedule 12 to, the National Health Service Act 1977(1), sections 17 and 20 of the National Health Service (Primary Care) Act 1997(2); and of all other powers enabling him in that behalf, hereby makes the following Regulations:

**Citation, commencement, interpretation and application**

1.—(1) These Regulations may be cited as the National Health Service (Miscellaneous Dental Charges Amendments) Regulations 2002 and shall come into force on 1 October 2002.

(2) In these Regulations—

“the Travelling Expenses Regulations” means the National Health Service (Travelling Expenses and Remission of Charges) Regulations 1988(3); and

“the Dental Charges Regulations” means the National Health Service (Dental Charges) Regulations 1989(4).

(3) These Regulations apply to England only.

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(1) 1977 c. 49. Section 37 (1C) was inserted by section 12(3) of the Health and Medicines Act 1988; section 78(1A) was inserted by section 11(1) of the Health and Medicines Act 1988 (“the 1988 Act”); section 79A was inserted by section 11(3) of the 1988 Act; section 82 has been amended by section 24 of the Health and Social Security Act 1984, section 5 of the National Health Service and Community Care Act 1990, section 41(10) of the National Health Service (Primary Care) Act 1997 and article 3(1) of S.I. 2000/90; section 83A was inserted by section 14(1) of the Social Security Act 1988 and has been amended by section 25 of the Health and Medicines Act 1988, section 66(1) of the National Health Service and Community Care Act 1990, section 2(1) of the Health Authorities Act 1995, section 41(1) of the National Health Service (Primary Care) Act 1997, article 2 of S.I. 1998/2385, article 3(1) of S.I. 2000/90 and by section 2(5) of the National Health Service Reform and Health Care Professions Act 2002; section 126(4) has been amended by section 65(2) of the National Health Service and Community Care Act 1990, section 65(1) of the Health Act 1999, section 67(1) of the Health and Social Care Act 2001 and by sections 6(3) and 37(1) of the National Health Service Reform and Health Care Professions Act 2002; paragraph 2(6) of Schedule 12 was amended by section 24 of the Health and Social Security Act 1984.

(2) 1997 c. 46.

(3) S.I. 1988/551, amended by 2001/742, 3065 and 4043, 2000/621 and 2870, 1999/2507, 1998/2417, 1997/748, 1996/410 and 2362, 1995/642, 1991/557, 1990/548 and 1661 and 1989/394.

(4) S.I. 1989/394, amended by 2002/544, 2001/2807, 2000/596, 1998/2221, 1993/419, 1991/581 and 1990/1638.

### **Amendment of regulation 2 of the Travelling Expenses Regulations**

2. In regulation 2 of the Travelling Expenses Regulations (interpretation), in paragraph (1), in the definition of “appropriate office”, for “of Social Security” there is substituted “for Work and Pensions”.

### **Amendment of regulation 3 of the Travelling Expenses Regulations**

3. In regulation 3 of the Travelling Expenses Regulations (entitlement to full remission and payment), in paragraph (3)(b), for “health authority” there is substituted “Primary Care Trust”.

### **Amendment of regulation 8 of the Travelling Expenses Regulations**

4. In regulation 8 of the Travelling Expenses Regulations (repayment), after paragraph (5) there is added—

“(6) The Dental Practice Board constituted under section 37 of the Act(5) is authorised to carry out any activity of the Secretary of State under the preceding paragraphs of this regulation relating to the repayment of charges for dental appliances and dental treatment described in regulation 3(2)(b).”.

### **Amendment of regulation 8A of the Travelling Expenses Regulations**

5. In regulation 8A of the Travelling Expenses Regulations (reimbursement of payments made in respect of relevant travelling expenses)—

- (a) “a District Health Authority,”(6), is omitted; and
- (b) for “District Health Authority or the Primary Care Trust, as the case may be,” there is substituted “Primary Care Trust”.

### **Amendment of Schedule 1 to the Travelling Expenses Regulations**

6. In Table A of Part I of Schedule 1 to the Travelling Expenses Regulations (calculation of resources), in the entry in column (2) relating to “regulation 62”—

- (a) there is inserted after the first paragraph of that entry—

“As if in paragraph (3), in sub-paragraph (a), for “in the period beginning with the benefit week, the first day of which coincides with, or immediately follows, the first day of the period of study and ending with the benefit week, the last day of which coincides with, or immediately precedes, the last day of the period of study” there were substituted “in that period”.

As if in paragraph (3), in sub-paragraph (b), for “beginning with the benefit week, the first day of which coincides with, or immediately follows, the first day of the period for which it is payable and ending with the benefit week, the last day of which coincides with, or immediately precedes, the last day of the period for which it is payable” there were substituted “in respect of which it is payable”.”,

and
- (b) there is added at the end—

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(5) Section 37 was amended by section 12 of the Health and Medicines Act 1988, which substituted references to “Dental Practice Board”. The section has also been amended by section 25 of the Health and Medicines Act 1988, section 2(1) of the Health Authorities Act 1995, section 22(1) of the Health and Social Care Act 2001 and section 1(3) of the National Health Service Reform and Health Care Professions Act 2002.

(6) “District Health Authority” is to be construed as “health authority” by virtue of the Health Authorities Act 1995 (Amendment to Transitional Provisions and Modification of References) Order 1996 (S.I. 1996/971).

“As if in paragraph (4), for “the weeks in the period beginning with the benefit week, the first day of which immediately follows the last day of the period of experience and ending with the benefit week, the last day of which coincides with, or immediately precedes, the last day of the period of study” there were substituted “the remaining weeks in that period”.”.

#### **Amendment of regulation 1 of the Dental Charges Regulations**

7. In regulation 1 of the Dental Charges Regulations (citation, commencement and interpretation)

(a) in paragraph (2)(a)—

(i) after the definition of “pilot scheme” there is inserted—

““registered midwife” means a midwife who is registered as a midwife with the Nursing and Midwifery Council under the Nursing and Midwifery Order 2001;”, and

(ii) for the definition of “relevant Health Authority”, there is substituted—

““relevant Primary Care Trust” means the Primary Care Trust with whom the arrangements for providing the dental services in question are made;”, and

(b) in paragraph (2)(b), for “health authority” there is substituted “Primary Care Trust”.

#### **Amendment of regulation 4 of the Dental Charges Regulations**

8. In regulation 4 of the Dental Charges Regulations (calculation of charges), in paragraph (4), for “health authority” in both places where it occurs, there is substituted “Primary Care Trust”.

#### **Amendment of regulation 6 of the Dental Charges Regulations**

9. In regulation 6 of the Dental Charges Regulations (making and recovery of charges)—

(a) in paragraph (1) for “health authority” there is substituted “Primary Care Trust”;

(b) in paragraph (2)(d), for “Health Authority” there is substituted “Primary Care Trust”; and

(c) in paragraph (3), for “relevant Health Authority” there is substituted “Board”.

#### **New regulation 7A inserted into Dental Charges Regulations**

10. In the Dental Charges Regulations, after regulation 7 (remission and repayment), there is inserted—

“7A Repayments

(1) This regulation applies to any person who:

(a) pays any charge for dental appliances and dental treatment payable pursuant to section 78(1A) or 79 of the Act or to section 20(1) of the Primary Care Act; and

(b) would, but for regulation 5, be exempt from the charge, under paragraph 2(4) or 3(4) of Schedule 12 to the Act, or section 20(6) of the Primary Care Act.

(2) Subject to the following provisions of this regulation, any person to whom this regulation applies is entitled to have such a charge repaid.

(3) Subject to paragraph (4), it is a condition of the entitlement to a repayment under this regulation that the person makes a claim to the Secretary of State for the repayment—

(a) within—

- (i) three months after payment of the charge; or
  - (ii) such further period as the Secretary of State may for good cause allow; and
  - (b) in a manner approved by or on behalf of the Secretary of State for that purpose; and
  - (c) supported by such evidence as the Secretary of State may reasonably require.
- (4) Subject to paragraph (5), where the person is unable for the time being to act, another person may make a claim on that person’s behalf.
- (5) The Secretary of State may refuse to accept a claim made by one person on behalf of another where, in the Secretary of State’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.
- (6) If satisfied that a person is entitled to repayment under this regulation, the Secretary of State shall cause a repayment to be made to that person in such manner as appears to the Secretary of State to be appropriate in the circumstances of the particular case.
- (7) The Board is authorised to carry out any activity of the Secretary of State under the preceding paragraphs of this regulation relating to the repayment of charges.”.

**Amendment of regulation 9 of the Dental Charges Regulations**

11. In regulation 9 of the Dental Charges Regulations (charges for replacement—general dental services), in paragraph (3), for “Health Authority” there is substituted “Primary Care Trust or the Board”.

**Amendment of regulation 10 of the Dental Charges Regulations**

12. In regulation 10 of the Dental Charges Regulations (discontinuation of treatment—general dental services), for “Health Authority” there is substituted “Primary Care Trust”.

**Amendment of regulation 11 of the Dental Charges Regulations**

13. In regulation 11 of the Dental Charges Regulations (reduction of remuneration and accounting for charges—general dental services), in paragraph (3), for “Health Authority” there is substituted “Primary Care Trust or NHS Trust”.

**Amendment of regulation 11A of the Dental Charges Regulations**

14. In regulation 11A of the Dental Charges Regulations (functions of the Dental Practice Board in relation to pilot schemes), in paragraph (c), for “Health Authority” there is substituted “Primary Care Trust”.

**Amendment of Schedule 2 to the Dental Charges Regulations**

15. In Schedule 2 to the Dental Charges Regulations (exemptions—categories and evidence), in column (2), in paragraph 3, after “registered medical practitioner” there is inserted “or a registered midwife”.

#### **Amendment of Schedule 4 to the Dental Charges Regulations**

16. In Schedule 4 to the Dental Charges Regulations (manner of determining charge for replacement), for “Health Authority”, wherever those words occur, there is substituted “Primary Care Trust”.

Signed by Authority of the Secretary of State

11th September 2002

*David Lammy*  
Parliamentary Under-Secretary of State,  
Department of Health

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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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 Travelling Expenses Regulations”) and the National Health Service (Dental Charges) Regulations 1989 (“the Dental Charges Regulations”).

Regulation 2 makes a minor amendment to the regulation 2 of the Travelling Expenses Regulations to reflect the change of a government department’s name.

The Travelling Expenses Regulations provide that the Income Support (General) Regulations 1987 (S.I. 1987/1967) (“Income Support Regulations”) are to be used to calculate a patient’s resources for the purposes of establishing entitlement to exemptions from National Health Service charges. Schedule 1 to the Travelling Expenses Regulations then provides a list of modifications to the Income Support Regulations to customise them for the purpose. Regulation 6 of these regulations add further modifications to Schedule 1 to the Travelling Expenses Regulations, as a consequence of the Income Support Regulations having been amended.

Regulation 15 amends Schedule 2 to the Dental Charges Regulations, by permitting a registered midwife to certify that a woman is pregnant, so that the woman can then claim exemption from dental charges (prior to this amendment, the certificate could only be issued by a registered medical practitioner). Regulation 7 amends the Dental Charges Regulations by inserting a definition of “registered midwife”.

Regulation 10 inserts a new regulation 7A into the Dental Charges Regulations. This provides a statutory basis for people, who are exempt from dental charges, to claim a refund of those charges if they have paid them in error.

Regulations 3, 4, 5, 7, 8, 9, 11, 12, 13, 14 and 16 insert references to Primary Care Trusts (and in some cases the Dental Practice Board) which reflect new arrangements for the discharge of health service functions by Primary Care Trusts and that Board.