

EXPLANATORY MEMORANDUM TO

The Charges for Drugs and Appliances and Provision of Health Services to Persons not Ordinarily Resident (Amendment) Regulations (Northern Ireland) 2009

S.R. 2009 No. 186

1. Introduction

- 1.1. This Explanatory Memorandum has been prepared by the Department of Health, Social Services and Public Safety to accompany the Statutory Rule (details above) which is laid before the Northern Ireland Assembly.
- 1.2. The Statutory Rule is made under Articles 42, 98, 106(b) and 107(6) of, and Schedule 15 to, the Health and Personal Social Services (Northern Ireland) Order 1972 and is subject to the negative resolution procedure.
- 1.3. The rule is due to come into operation on 9th May 2009.

2. Purpose

- 2.1. The purpose of these Regulations is to amend Regulations which impose certain charges for Health Service treatment in Northern Ireland, so as to ensure that Health Service treatment in relation to a possible pandemic influenza (in particular the supply of antivirals to the population and hospital treatment for non-UK residents) is provided free of charge. These Regulations amend: the Charges for Drugs and Appliances Regulations (Northern Ireland) 1997 ("the 1997 Regulations") which provide for the making and recovery of charges for drugs and appliances supplied by doctors and chemists providing pharmaceutical services, and by hospitals and HSC trusts to out-patients, and the Provision of Health Services to Persons not Ordinarily Resident Regulations (Northern Ireland) 2005 ("the 2005 Regulations") which make provision as to the entitlement of, and exemptions from charges for, services forming part of health services which may be provided to visitors to Northern Ireland.
- 2.2. Regulation 2 amends the 1997 Regulations to provide that no charge shall be made by the Regional Board or an HSC trust when there is a pandemic disease (such as pandemic influenza) which poses a serious risk, or potentially poses a serious risk, to human health (or such a disease is anticipated imminently) and the supply of the drug is in accordance with a protocol relating to that disease as provided for in Article 12F of the Prescription Only Medicines (Human Use) Order 1997 or Article 8 of the Medicines (Pharmacy and General Sale-Exemption) Order 1980.
- 2.3. Regulation 4(5)(d) of the 2005 Regulations provides that no charge shall be made in respect of services forming part of the health service that are provided for a visitor for treatment in respect of a disease listed in Schedule 1 to the 2005 Regulations. Regulation 3 of these Regulations amends that Schedule to insert an entry for pandemic influenza. The effect is that a visitor who is being treated in hospital for pandemic influenza will not be charged for any Health Service treatment in respect of that condition.

3. Background

- 3.1. The World Health Organisation (WHO) has recently declared phase 5 of a pandemic influenza alert (human to human spread of the virus in at least 2 countries in one WHO region), indicating that a pandemic influenza is imminent, and there have been a number of cases involving person-to-person transmission in the UK. It is therefore necessary to put in place arrangements to respond to a pandemic as soon as possible.
- 3.2. This statutory rule amends the 1997 Regulations to create a new exemption from charging where drugs are supplied by Health Service bodies in response to a pandemic influenza outbreak. The amendment will remove the charge to ensure that the drugs such as antivirals can be distributed free of charge, so there is no administrative burden in the process and to ensure that cost is not a barrier to people taking up these medicines.
- 3.3. The 2005 Regulations provide for charges to be recovered from persons not ordinarily resident in respect of certain Health Service treatment in Northern Ireland. This statutory rule amends the Regulations to add pandemic influenza to the list of diseases of which there is no charge. This is to ensure that visitors in Northern Ireland receive hospital treatment for pandemic influenza free of charge.

4. Matters of Special Interest to the Health, Social Services and Public Safety Committee

- 4.1. This statutory rule comes into operation the day after it is made, in breach of the 21 day rule.

5. Consultation

- 5.1. These provisions to exempt pandemic treatment from Health Service charges have not been subject to consultation given the urgent need to put arrangements in place as soon as possible.

6. Position in Great Britain

- 6.1. The equivalent legislation in England is the National Health Service (Charges) (Amendments Relating to Pandemic Influenza) Regulations 2009 No. 1166. Scotland and Wales are making similar changes.

7. Equality Impact

- 7.1. As the measure has no adverse impact on Section 75 groups the Department has concluded it is not necessary to submit this measure to a full EQIA.

8. Regulatory Impact

- 8.1. A Regulatory Impact Assessment was not considered necessary as the impact of the changes will not have an adverse impact on business, charities, social enterprise or voluntary bodies.

9. Financial Implications

- 9.1. None.

10. Section 24 of the Northern Ireland Act 1998

- 10.1. The proposed legislation is considered compatible with section 24 of the Northern Ireland Act 1998.

11. EU Implications

- 11.1. Not applicable.

12. Additional Information

- 12.1. Not applicable.