

**1989 No. 326 (S.36)**

**NATIONAL HEALTH SERVICE, SCOTLAND**

**The National Health Service (Charges for Drugs and  
Appliances) (Scotland) Regulations 1989**

*Made - - - - - 3rd March 1989*

*Laid before Parliament 10th March 1989*

*Coming into force 1st April 1989*

**ARRANGEMENT OF REGULATIONS**

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The Secretary of State, in exercise of the powers conferred on him by sections 19, 25, 27, 69, 75(a), 105 and 108(1) of, and paragraph 1 of Schedule 11 to, the National Health Service

(Scotland) Act 1978(a) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

### **Citation and commencement**

1. These Regulations may be cited as the National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations 1989 and shall come into force on 1st April 1989.

### **Interpretation**

2.—(1) In these Regulations, unless the context otherwise requires—

“the Act” means the National Health Service (Scotland) Act 1978;

“accepted disablement” means physical or mental injury or disease which is accepted by the Secretary of State as attributable to or aggravated by service in the armed forces of the Crown or such other service as he may determine;

“appliance” means an appliance, other than a contraceptive appliance, which is a listed appliance within the meaning of section 27(1) of the Act;

“Board” means a Health Board constituted under section 2 of the Act;

“chemist” includes any person, other than a doctor, providing pharmaceutical services;

“the Dental Services Regulations” means the National Health Service (General Dental Services) (Scotland) Regulations 1974(b);

“dentist” means a registered dental practitioner;

“doctor” means a fully registered medical practitioner;

“drugs” includes medicines but does not include contraceptive substances;

“exemption” means any remission granted under or by virtue of these Regulations;

“exemption certificate” means a certificate issued pursuant to these Regulations authorising a person to claim exemption from charges payable under these Regulations;

“medical list” has the meaning assigned to it by regulation 4(1) of the Medical Services Regulations;

“the Medical Services Regulations” means the National Health Service (General Medical and Pharmaceutical Services) (Scotland) Regulations 1974(c);

“out-patient” means a person receiving treatment under the Act otherwise than under Part II of the Act and who is not for the purpose of receiving that treatment resident in a hospital;

“patient” means as the case may require any person for whose treatment a doctor or dentist is responsible under his terms of service or any person who applies to a chemist for the provision of pharmaceutical services; and includes a person who so applies to a chemist on behalf of a patient and a person who pays or undertakes to pay on behalf of a patient the charges for which these Regulations provide;

“pharmaceutical services” means services provided under section 27 of the Act;

“prescription form” means a form on which the provision of pharmaceutical services may be ordered by a Board or by a doctor or dentist pursuant to the provisions of their terms of service and which contains on its reverse side a form of declaration of entitlement to exemption;

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- (a) 1978 c.29; Section 19 was amended by the Health Services Act 1980 (c.53), (“the 1980 Act”), Section 7, by the Health and Social Services and Social Security Adjudications Act 1983 (c.41) (“the 1983 Act”), Schedule 7, paragraph 2, and by the Medical Act 1983 (c.54), Schedule 5, paragraph 17(a); Section 25 was amended by the 1980 Act, Schedule 6, paragraph 4, by S.I. 1981/432, by the 1983 Act, Section 16 and by the Health and Medicines Act 1988 (c.49) (“the 1988 Act”), Schedule 2, paragraph 11; section 27 was amended by the 1980 Act, section 20(2), by the National Health Service (Amendment) Act 1986 (c.66), section 3(3) and by S.I. 1987/2202; section 105, which was amended by the 1980 Act, Schedule 6, paragraph 5 and Schedule 7 and by the 1983 Act, Schedule 9, paragraph 24, contains provisions relevant to the making of regulations; and section 108(1) contains definitions of “prescribed” and “regulations” relevant to the exercise of the statutory powers under which these Regulations are made.
- (b) S.I. 1974/505; relevant amending instruments are S.I. 1974/2048, 1980/1220, 1981/900, 1984/1491, 1985/1552, 1986/1571, 1987/1634 and 1988/854.
- (c) S.I. 1974/506; relevant amending instruments are S.I. 1975/696, 1976/733, 1574, 1978/1762, 1981/56 and 965, 1982/1279, 1985/296, 534, 804, 1625 and 1713, 1986/303, 925, 1507 and 2310, 1987/386 and 1382, 1988/1073, 1454 and 2259.

“terms of service” has the meaning respectively in respect of a doctor, a chemist or a dentist assigned to it in the Medical Services Regulations or the Dental Services Regulations;

“treatment” includes examination and diagnosis.

(2) For the purpose of these Regulations (a) the supply of quantities of the same drug in more than one container against an order on one prescription form shall be deemed to be the supply of only one quantity of a drug and (b) the supply against an order on one prescription form of more than one appliance of the same type or the supply against an order on one prescription form of two or more component parts of the same appliance shall be deemed to be the supply of only one appliance, so however that any piece of elastic hosiery shall be deemed to be a separate appliance.

(3) Unless the context otherwise requires, any reference in these Regulations to a numbered regulation or Schedule is a reference to the regulation in, or as the case may be, the Schedule to these Regulations which bears that number, and any reference in a regulation to a numbered paragraph is a reference to the paragraph bearing that number in that regulation.

### **Supply of drugs and appliances by chemists**

3.—(1) A chemist who provides pharmaceutical services to a patient shall make and recover from the patient—

- (a) in respect of the supply of an appliance specified in column 1 of Schedule 1 a charge in the sum specified in column 2 of Schedule 1 in respect of that appliance; and
- (b) in any other case, in respect of the supply of each quantity of a drug and each appliance not so specified, a charge in the sum of £2.80;

except where a declaration of entitlement to exemption on the prescription form is duly completed by or on behalf of the patient.

(2) For the purposes of this regulation, where a quantity of a drug ordered on one prescription form is ordered to be supplied by instalments during a period of not more than 14 days, only one charge shall be payable and it shall be payable upon the supply of the first instalment.

(3) A chemist, notwithstanding the provisions of his terms of service, shall be under no obligation to provide pharmaceutical services in respect of an order on a prescription form unless he is first paid by the patient the charge payable under paragraph (1)(a) or (1)(b) or the exception set out in paragraph (1) is applicable.

(4) A chemist who makes and recovers a charge under paragraphs (1) or (2) shall, if so required by the patient, give him a receipt for the amount received on a form provided for the purpose by the Board which contains forms of declaration in support of an application for repayment.

(5) Any sum which a Board is under a duty to pay or cause to be paid to a chemist in respect of the provision by him of pharmaceutical services, other than such provision to which the exception set out in paragraph (1) applies, shall be reduced by the sum specified in paragraph (1)(b) in respect of each quantity of a drug supplied and by the sum specified in paragraph (1)(b), or as the case may require, the sum specified in column 2 of Schedule 1 in respect of each appliance supplied as part of such services.

### **Supply of drugs and appliances by doctors**

4.—(1) A doctor, who provides pharmaceutical services to a patient in pursuance of the provisions of regulation 30 of the Medical Services Regulations (and otherwise than under paragraph 15(1) of Schedule 1 to those Regulations) shall make and recover from that patient—

- (a) in respect of the supply of an appliance specified in column 1 of Schedule 1 a charge in the sum specified in column 2 of Schedule 1 in respect of that appliance; and
- (b) in any other case, in respect of the supply of each quantity of a drug and each appliance not so specified, a charge in the sum specified in regulation 3(1)(b),

except where the patient or a person on his behalf declares that he is entitled to exemption.

(2) For the purposes of this regulation where a doctor supplies a quantity of a drug by instalments during a period of not more than 14 days, only one charge shall be payable and it shall be payable upon the supply of the first instalment.

(3) A doctor shall be under no obligation to supply drugs or appliances in respect of which he is required by the provisions of paragraph (1) to make and recover a charge, unless he is first paid by the patient the charge prescribed by paragraph (1)(a) or (1)(b), or the exception set out in paragraph (1) is applicable.

(4) A doctor shall as soon as practicable after the end of each month send a sum of money equal to the total of the charges required to be made and recovered by him pursuant to the provisions of paragraph (1) during that month to the Board on whose medical list he is included, or, if he is included on more than one medical list, to the Board which pursuant to the provisions of the Statement published under regulation 31 of the Medical Services Regulations causes payment to be made to him for the provision of general medical services on behalf of all the Boards concerned.

(5) A doctor who makes and recovers a charge under paragraphs (1) or (2) shall, if so required by the patient, give him a receipt for the amount received on a form provided for the purpose by the Board which contains forms of declaration in support of an application for repayment.

#### **Supply of drugs and appliances to out-patients**

5.—(1) A Board which at a hospital supplies to an out-patient drugs (otherwise than for administration in the hospital) or appliances for the purposes of his treatment, shall make and recover from the out-patient—

- (a) in respect of the supply of an appliance specified in column 1 of Schedule 1 or of Schedule 2 a charge in the sum specified in column 2 of Schedule 1 or of Schedule 2 in respect of that appliance; and
- (b) in respect of the supply of each quantity of a drug and each appliance not so specified, a charge in the sum specified in regulation 3(1)(b).

(2) For the purposes of this regulation only one charge in respect of each quantity of a drug supplied by a hospital or by a chemist against an order on one prescription form shall be payable notwithstanding that such quantity is by order of the prescriber to be supplied on more than one day during a period of 14 days.

(3) A Board which makes and receives a charge under this regulation shall, if so required by the patient, give him a receipt for the amount paid on a form which contains forms of declaration in support of an application for repayment.

#### **Fabric supports and wigs**

6.—(1) A Board which, otherwise than under Part II of the Act, supplies to a patient for the purposes of his treatment an appliance of a description specified in column 1 of Schedule 3 shall make and recover from the patient a charge in the sum specified in column 2 of Schedule 3 in respect of that appliance.

(2) A Board which makes and recovers a charge under this regulation shall, if so required by the patient making the payment, give him a receipt for the amount received.

(3) No charge under this regulation shall be payable by or on behalf of a patient to whom the Secretary of State has issued an exemption certificate in respect of treatment for accepted disablement in respect of the supply of an appliance which he requires for the purpose of the treatment of that disablement.

(4) Where a patient has paid a charge which, but for paragraph (3), would be authorised by paragraph (1) he may claim a refund of that charge by presenting to the Board the receipt for it together with—

- (a) the certificate mentioned in paragraph (3); and
- (b) if the patient was referred by a doctor to the Board for treatment, either—
  - (i) a certificate from the doctor certifying that it was for the accepted disablement; or
  - (ii) a statement that such a certificate was surrendered to the Board on or before the supply of the appliance.

(5) The Board, if satisfied by the evidence so produced that the charge to which the receipt relates was not properly payable, shall repay to the patient the amount of the charge and return any certificate to which paragraph (3) refers which he may have submitted.

## Exemptions

7.—(1) Subject to the provisions of paragraphs 1(1) and 4 of Schedule 11 to the Act and to the following provisions of this regulation, no charge shall be payable under these Regulations other than regulation 6 by—

- (a) a person who has not attained the age of 16 years;
  - (b) a person who has not attained the age of 19 years and is receiving qualifying full time education within the meaning of paragraph 7 of Schedule 11 to the Act(a);
  - (c) a person being a man who has attained the age of 65 years or being a woman who has attained the age of 60 years;
  - (d) a woman to whom a Board has issued an exemption certificate on the ground that she is an expectant mother or has within the last twelve months given birth to a live child or a child registrable as still-born under the Registration of Births, Deaths and Marriages (Scotland) Act 1965(b);
  - (e) a person to whom a Board has issued an exemption certificate on the ground that he is suffering from one or more of the following conditions:—
    - (i) permanent fistula (including caecostomy, colostomy, laryngostomy, or ileostomy) requiring continuous surgical dressing or an appliance;
    - (ii) the following disorders for which specific substitution therapy is essential:—

Addison's disease and other forms of hypoadrenalism,  
diabetes insipidus and other forms of hypopituitarism,  
diabetes mellitus,  
hypoparathyroidism,  
myasthenia gravis,  
myxoedema;
    - (iii) epilepsy requiring continuous anti-convulsive therapy;
    - (iv) a continuing physical disability which prevents the patient from leaving his residence without the help of another person;
  - (f) a person to whom the Secretary of State has issued a certificate in respect of the supply of drugs and appliances for the treatment of accepted disablement but only in respect of those supplies to which the certificate relates;
  - (g) a person to whom a certificate has been granted pursuant to regulations having effect under or by virtue of section 69(2) of the Act;
- (2) No exemption from a charge payable under these Regulations shall be granted unless—
- (a) in the case of a charge payable to a chemist, a declaration of entitlement to exemption on the prescription form presented to the chemist is duly completed by or on behalf of the person claiming exemption; or
  - (b) in the case of a charge payable to a doctor, a declaration of entitlement to exemption, which shall be in writing if the doctor so requires, is made to that doctor; or
  - (c) in the case of a charge payable to a Board under regulation 5, the person claiming exemption provides such evidence as that Board may reasonably require that he is entitled to such exemption.
- (3)(a) A person who wishes to claim exemption pursuant to the provisions of paragraph (1)(d) or (1)(e) shall apply for an exemption certificate to the Board on a form supplied by the Board for that purpose.
- (b) A Board on being satisfied that an applicant is entitled to exemption pursuant to the provisions of paragraph (1)(d), shall issue an exemption certificate which shall have effect—
- (i) in the case of an expectant mother until the end of her pregnancy and where she gives birth to a live child or a child registrable as still-born under the Registration of Births, Deaths and Marriages (Scotland) Act 1965, until the end of the period of twelve months beginning with the expected date of confinement;
  - (ii) in the case of a mother who has given birth to a child, until the end of the period of twelve months beginning with the date of birth of that child.

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(a) Paragraph 7 of Schedule 11 was inserted by the 1980 Act, Schedule 5, paragraph 8.

(b) 1965 c.49.

(c) A Board shall issue to the applicant an exemption certificate which shall have effect for such period as they may determine, on being satisfied that the applicant is not entitled to exemption under the provisions of paragraph (1)(a), (1)(b) or (1)(c), and is entitled to exemption in pursuance of the provisions of paragraph (1)(e).

(4) Where a claim to exemption has been made but is not substantiated and in consequence of that claim a chemist, a doctor or a Board has not recovered a charge in respect of the supply of any drugs or appliances, a Board shall recover such charge from the person concerned.

(5) Any claim to exemption by reference to age or the validity of a certificate shall be determined by reference to age or validity on the date on which any order for drugs or appliances is presented for dispensing, or, as the case may be, drugs or appliances are supplied by a doctor or a Board.

(6) The charges which may be made and recovered by virtue of these Regulations are subject to the provisions of regulations made under section 75A(a) of the Act providing for remission or repayment(b).

#### **Pre-payment certificates**

8.—(1) Subject to the following provisions of this regulation, a Board on payment of the sum prescribed by paragraph (5) shall as soon as reasonably practicable grant a certificate (in these Regulations referred to as pre-payment certificate) to any person who duly completes and submits an application therefor on a form provided for the purpose by the Board.

(2) A pre-payment certificate shall be valid for a period of either 4 months or 12 months and an application under paragraph (1) for such a certificate shall indicate the period for which it is required to be valid.

(3) The payment of a sum prescribed under this regulation shall not be deemed to be the payment of a charge under these Regulations.

(4) No certificate shall be issued under this regulation unless the application made therefor is received less than one month before the date on which its period of validity is to begin.

(5) For the purpose of this regulation the sum prescribed shall be £14.50 for a pre-payment certificate valid for 4 months and £40.00 for such a certificate valid for 12 months.

(6) Where payment of a sum prescribed under this regulation is made in respect of a person who, not more than one month after the date on which his certificate became valid, does or becomes a person to whom any of the provisions of regulation 7(1) applies, a claim for repayment of that sum may, subject to the provisions of paragraph (7), be made by or on behalf of that person.

(7) A claim under paragraph (6) shall be accompanied by the appropriate certificate (where issued) and a declaration in support of the claim, and the claim and any repayment shall be made in such manner and subject to such conditions as the Secretary of State may determine.

#### **Repayments**

9.—(1) Where a charge has been paid under these Regulations by or on behalf of a person who, by virtue of regulation 7, was at the time of payment eligible for exemption from that charge, a claim for repayment of that charge may, subject to the provisions of this regulation, be made by or on behalf of that person.

(2) A claim for repayment of charges paid under this regulation shall be accompanied by the appropriate receipt and the appropriate declaration in support of the claim.

(3) The Secretary of State may determine different periods within which claims must be submitted for different claimants or categories of claimants, so however that the period shall in no case be less than one month from the date on which the charge was paid.

(4) Subject to paragraph (2), any claim or any repayment under this regulation shall be made in such manner and subject to such conditions as the Secretary of State may determine.

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(a) Section 75A was inserted by the Social Security Act 1988 (c.7), section 14(2).

(b) See S.I. 1988/546, as amended by S.I. 1989/393.

### **Application**

**10.** These Regulations shall apply only where drugs are supplied after 31st March 1989 except that—

- (a) regulation 6 shall apply where the examination or first examination leading to the supply of the specified appliance takes place after 31st March 1989;
- (b) regulation 8 shall apply where the application referred to in paragraph (1) of that regulation is received after 31st March 1989.

### **Revocations**

**11.** The Regulations specified in Schedule 4 are hereby revoked.

St. Andrew's House, Edinburgh  
3rd March 1989

*Michael B. Forsyth*  
Parliamentary Under Secretary of State,  
Scottish Office

**SCHEDULE 1**

Regulations 3, 4 and 5

**CHARGES FOR ELASTIC HOSIERY**

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<i>Column 1</i> <i>Specified Appliance</i>	<i>Column 2</i> <i>Specified Sum</i>
Above knee stocking, below knee stocking or thigh stocking	£2.80 each (ie £5.60 per pair)

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**SCHEDULE 2**

Regulation 5

**CHARGES FOR TIGHTS**

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<i>Column 1</i> <i>Specified Appliance</i>	<i>Column 2</i> <i>Specified Sum</i>
Tights (per pair)	£5.60

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**SCHEDULE 3**

Regulation 6

**CHARGES FOR FABRIC SUPPORTS AND WIGS**

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<i>Column 1</i> <i>Specified Appliance</i>	<i>Column 2</i> <i>Specified Sum</i>
Surgical Brassiere	£12.00
Abdominal or Spinal Support	£16.00
Stock Modacrylic Wig	£24.00
Partial Human Hair Wig	£62.00
Full Bespoke Human Hair Wig	£97.00

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**SCHEDULE 4**  
**REVOCATIONS**

Regulation 11

<i>Column 1</i> <i>Regulations revoked</i>	<i>Column 2</i> <i>References</i>	<i>Column 3</i> <i>Extent of revocation</i>
The National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations 1980	S.I. 1980/1674	All extant regulations
The National Health Service (Charges for Drugs and Appliances) (Scotland) Amendment (No. 2) Regulations 1981	S.I. 1981/1717	The whole Regulations
The National Health Service (Charges for Drugs and Appliances) (Scotland) Amendment Regulations 1983	S.I. 1983/334	All extant regulations
The National Health Service (Charges for Drugs and Appliances) (Scotland) (No. 2) Amendment Regulations 1983	S.I. 1983/1172	The whole Regulations
The National Health Service (Charges for Drugs and Appliances) (Scotland) Amendment Regulations 1984	S.I. 1984/292	All extant regulations
The National Health Service (Charges for Drugs and Appliances) (Scotland) Amendment Regulations 1985	S.I. 1985/353	All extant regulations
The National Health Service (Charges for Drugs and Appliances) (Scotland) Amendment Regulations 1987.	S.I. 1987/367	All extant regulations
The National Health Service (Charges for Drugs and Appliances) (Scotland) Amendment Regulations 1988	S.I. 1988/365	The whole Regulations
The National Health Service (General Medical and Pharmaceutical Services and Charges for Drugs) (Scotland) Amendment Regulations 1988	S.I. 1988/1073	regulation 3

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations consolidate with amendments the provisions for the making and recovery of charges for drugs and appliances (other than dental or optical appliances) supplied under or by virtue of the National Health Service (Scotland) Act 1978 and formerly contained in the National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations 1980, and in other regulations.

The principal amendments increase the charges specified for the supply of drugs and appliances, elastic hosiery, fabric supports and wigs.

The charge for most items on prescription or supplied to an out-patient is increased from £2.60 to £2.80. The charge for an elastic stocking is increased from £2.60 to £2.80, for tights from £5.20 to £5.60 per pair and the charges for fabric supports and wigs are increased from between £11.00 and £90.00 to between £12.00 and £97.00. The sums prescribed for pre-payment certificates of exemption from prescription charges are increased from £13.50 to £14.50 for a 4 month certificate, and from £37.50 to £40.00 for a 12 month certificate.

The provision whereby a chemist has been authorised to accept postage stamps in payment of prescription charges has been little used in recent years and has therefore been removed from these Regulations.

Regulation 11 gives effect to the revocation of regulations listed in Schedule 4 which are superseded by these Regulations.