

**2002 No. 2352**

**NATIONAL HEALTH SERVICE, ENGLAND**

**The National Health Service (Charges for Drugs and Appliances) Amendment (No. 3) 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 77, 83, 83A and 126(4) of the National Health Service Act 1977(a), section 35 of the Health and Social Care Act 2001(b), 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 (Charges for Drugs and Appliances) Amendment (No. 3) Regulations 2002 and shall come into force on 1st October 2002.

(2) In these regulations “the principal regulations” means the National Health Service (Charges for Drugs and Appliances) Regulations 2000(c).

(3) These regulations apply to England only.

**Amendment of regulation 2 of the principal regulations**

2. Paragraph (1) of regulation 2 of the principal regulations (interpretation) is amended as follows:

- (a) in the definition of “chemist”, after “pharmaceutical services” there is inserted “or local pharmaceutical services”;
- (b) after the definition of “exemption certificate” there is inserted—
  - ““local pharmaceutical services” means services that are both—
  - (a) of a kind which may be provided under section 41 of the Act or by virtue of section 41A of the Act, other than practitioner dispensing services; and
  - (b) provided under a pilot scheme as defined in section 28(2) of the Health and Social Care Act 2001;”;

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(a) 1977 c. 49. Section 83 has been amended by s.24 of the Health and Social Security Act 1984, s.2(1) of the Health Authorities Act 1995, s.41(10) of the National Health Service (Primary Care) Act 1997, article 3(1) of S.I. 2000/90 and s.2(5) of the National Health Service Reform and Health Care Professions Act 2002; section 83A was inserted by s.14(1) of the Social Security Act 1988, and has been amended by s.66(1) of the National Health Service and Community Care Act 1990, s.2(1) of the Health Authorities Act 1995, article 2 of S.I. 1998/2385, article 3(1) of S.I. 2000/90 and s.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 sections 6(3) and 37(1) of the National Health Service Reform and Health Care Professions Act 2002.

(b) 2001 c. 15.

(c) S.I. 2000/620. Amending instruments are 2002/548 and 1386, 2001/746 and 2887, 2000/2393 and 3189.

- (c) in the definition of “patient”, in paragraph (b), after “pharmaceutical services” there is inserted “or local pharmaceutical services”; and
- (d) in the definition of “prescription form”—
  - (i) “a Health Authority,” is omitted; and
  - (ii) after “pharmaceutical services” there is inserted “or local pharmaceutical services”.

#### **Amendment of regulation 3 of the principal regulations**

3. Regulation 3 of the principal regulations (supply of drugs and appliances by chemists) is amended as follows:

- (a) in paragraph (1), after “pharmaceutical services” there is inserted “or local pharmaceutical services”;
- (b) in paragraph (5)—
  - (i) after “terms of service”, there is inserted “on agreement to provide local pharmaceutical services”; and
  - (ii) after “pharmaceutical services” there is inserted “or local pharmaceutical services”; and
- (c) in paragraph (7)—
  - (i) for “Health Authority” there is substituted “Primary Care Trust”; and
  - (ii) after “pharmaceutical services” there is inserted “or local pharmaceutical services”.

#### **Amendment of regulation 4 of the principal regulations**

4. In Regulation 4 of the principal regulations (supply of drugs and appliances by doctors), in paragraph (7), for “Health Authority” there is substituted “Primary Care Trust”.

#### **Amendment of regulation 5 of the principal regulations**

5. Regulation 5 of the principal regulations (supply of drugs and appliances by health authorities, NHS trusts and primary care trusts) is amended as follows:

- (a) in paragraph (1), “A Health Authority,” is omitted;
- (b) in paragraph (3), “Health Authority,” is omitted; and
- (c) in paragraph (6), for “A Health Authority,” there is substituted “An”.

#### **Amendment of regulation 6 of the principal regulations**

6. Regulation 6 of the principal regulations (supply of drugs and appliances at walk-in centres) is amended as follows:

- (a) in paragraph (1), “Health Authority,” is omitted;
- (b) in paragraph (3), “Health Authority,” is omitted; and
- (c) in paragraph (5), for “A Health Authority,” there is substituted “An”.

#### **Amendment of regulation 7 of the principal regulations**

7. Regulation 7 of the principal regulations (exemptions) is amended as follows:

- (a) in paragraph (1)(d) and (1)(e), for “a Health Authority” there is substituted “the Secretary of State”;
- (b) in paragraph (6)(a), after “pharmaceutical services” there is inserted “or local pharmaceutical services”; and
- (c) for paragraph (7) there is substituted—
  - “(7) Where a claim to exemption has been made but is not substantiated, and in consequence of the claim a charge has not been recovered—
  - (a) if the drugs or appliances were supplied by an NHS Trust, then that NHS Trust shall recover that charge from the person concerned; or
  - (b) if the drugs or appliances were supplied by—
    - (i) a Primary Care Trust,
    - (ii) a chemist on a Primary Care Trust’s list; or

(iii) a chemist who has entered into an agreement with a Primary Care Trust to provide local pharmaceutical services,  
then that Primary Care Trust shall recover that charge from the person concerned.”.

#### **Amendment of regulation 8 of the principal regulations**

**8.** Regulation 8 of the principal regulations (certificates of exemption—application and issue) is amended as follows:

- (a) in paragraph (1)—
  - (i) for “Health Authority” there is substituted “Secretary of State”; and
  - (ii) for “Department of Social Security” there is substituted “Ministry of Defence”;
- (b) in paragraph (2)—
  - (i) for “A Health Authority” there is substituted “The Secretary of State”; and
  - (ii) after “be valid” there is inserted “from the first day of the month in which the Secretary of State received the application made under paragraph (1)”; and
- (c) for paragraph (3) there is substituted—

“(3) The Secretary of State, on being satisfied that an applicant, not being a person entitled to exemption under the provisions of regulation 7(1)(a), (b) or (c), is entitled to exemption under regulation 7(1)(e) shall issue to the applicant an exemption certificate which shall be valid—

  - (a) from the first day of the month in which the Secretary of State received the application made under paragraph (1); and
  - (b) for such period as the Secretary of State may determine.”.

#### **Amendment of regulation 9 of the principal regulations**

**9.** Regulation 9 of the principal regulations (pre-payment certificates) is amended as follows:

- (a) in paragraph (1)—
  - (i) for “a Health Authority” there is substituted “the Secretary of State”; and
  - (ii) for “who duly completes and submits an application for it on a form provided for the purpose” there is substituted—

who provides the Secretary of State with all the information the Secretary of State requires to determine an application, by—

    - (a) duly completing and submitting an application for it on a form provided for the purpose; or
    - (b) providing the Secretary of State with that information in a manner that is acceptable to the Secretary of State”;
- (b) for paragraph (4) there is substituted—

“(4) A pre-payment certificate shall be valid—

  - (a) from a date before the application is made, where that date—
    - (i) was specified by the applicant when making the application; and
    - (ii) is no more than one month prior to the date upon which the application was made under paragraph (1); or
  - (b) from a date after the application is made, where that date—
    - (i) was specified by the applicant when making the application; and
    - (ii) is no more than one month after the date upon which the application was made under paragraph (1); or
  - (c) if the applicant does not specify a date under sub-paragraphs (a)(i) and (b)(i), from the date upon which the application is received.”;
- (c) in paragraph (13) for “Health Authority which received the prescribed sum” there is substituted “Secretary of State”; and
- (d) in paragraph (15) for “Health Authority shall accept it if the Secretary of State is” there is substituted “Secretary of State shall accept it if”.

### **Amendment of regulation 10 of the principal regulations**

**10.** Regulation 10 of the principal regulations (repayment of charges) is amended as follows:

- (a) in paragraph (2)(d), after “receipt” there is inserted “which is given under regulation 3(6), 4(6), 5(6), 6(5) or 6A(5)”; and
- (b) in paragraph (3), “Health Authority,” in both places where it occurs, is omitted.

### **Amendment of regulation 11 of the principal regulations**

**11.** Regulation 11 of the principal regulations (arrangements between NHS bodies and local authorities) is amended as follows:

- (a) for “a Health Authority,” there is substituted “an”; and
- (b) in the second place where it occurs, “Health Authority”, is omitted.

Signed by Authority of the Secretary of State

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

11th September 2002

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### **EXPLANATORY NOTE**

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

These Regulations amend the National Health Service (Charges for Drugs and Appliances) Regulations 2000 (“the principal Regulations”).

Regulation 2(b) inserts a definition of local pharmaceutical services (“LPS”) into regulation 2(1) of the principal regulations. This is required consequential to other changes made to the principal regulations which provide that drugs or appliances provided under LPS are subject to the charging regime set out there. Further related changes are in regulations 2(a), 2(c), 2(d)(ii), 3(a), 3(b), 3(c)(ii) and 7(b).

Regulations 2(d)(ii), 3(c)(i), 4, 5, 6, 7(a), 7(c), 8(a)(i), 8(b)(i), 9(a)(i), 9(c), 9(d), 10(b) and 11 amend the principal regulations as a consequence of new arrangements for the discharge of health service functions by Primary Care Trusts.

Regulation 8(a)(ii) makes minor changes that result from the duties of one government department having shifted to another department.

Regulation 8 also amends the principal regulations in relation to exemption certificates, clarifying when they commence to be valid.

Regulation 9 amends the provisions in the principal regulations relating to pre-payment certificates (PPCs). These changes clarify the date upon which all PPCs become valid and enable applications for PPCs to be made other than on a form.

Regulation 10 makes a minor change to regulation 10 of the principal regulations, to make it clearer, but without changing its meaning.

£1.75

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Printed and published in the UK by The Stationery Office Limited  
under the authority and superintendence of Carol Tullo, Controller of  
Her Majesty’s Stationery Office and Queen’s Printer of Acts of Parliament.  
E1450 9/2002 121450 19585

ISBN 0-11-042801-3



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