

**2002 No. 2759**

**NATIONAL HEALTH SERVICE, ENGLAND AND WALES**

**The National Health Service Act 1977 and National Health Service and Community Care Act 1990 (Amendment) Regulations 2002**

*Made* - - - - - *7th November 2002*  
*Laid before Parliament* *7th November 2002*  
*Coming into force* - - *29th November 2002*

The Secretary of State for Health being the Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to the National Health Service acting in exercise of the powers conferred by the said section 2(2) hereby makes the following Regulations:

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the National Health Service Act 1977 and National Health Service and Community Care Act 1990 (Amendment) Regulations 2002 and shall come into force on 29th November 2002.

(2) These Regulations extend to England and Wales only.

**Interpretation**

2. In these Regulations—

“the 1977 Act” means the National Health Service Act 1997(c);

“the 1990 Act” means the National Health Service and Community Care Act 1990(d).

**Amendment of the 1977 Act**

3.—(1) After subsection (1) of section 3 of the 1977 Act (services generally) there shall be inserted—

“(1A) The Secretary of State may provide or secure the provision of anything mentioned in subsection (1) above outside England and Wales.”

(2) Section 5(2)(b) of the 1977 Act is repealed.

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(a) See The European Communities (Designation) Order (No. 3) 2001 No. 3495.

(b) 1972. c. 68. By virtue of the amendment of section 1(2) of the European Communities Act 1972 by section 1 of the European Economic Area Act 1993 (c. 51), regulations may be made under section 2(2) of the European Communities Act to implement obligations of the United Kingdom created or arising by or under the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (Cm 2073) and the Protocol adjusting the Agreement signed at Brussels on 17th March 1995 (Cm 2183).

(c) 1977 c. 49.

(d) 1990 c. 19.

## Amendment of the 1990 Act

4. After paragraph 15 of Schedule 2 to the 1990 Act there shall be added—  
“15A An NHS Trust may arrange for the provision of accommodation and services outside England and Wales.”

Signed by authority of the Secretary of State for Health

7th November 2002

*John Hutton*  
Minister of State  
Department of Health

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### EXPLANATORY NOTE

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

These Regulations (which apply to England and Wales) amend the National Health Service Act 1977 and the National Health Service and Community Care Act 1990 to implement European obligations (arising from decisions of the European Court of Justice, in particular case C-157/99 *B.S.M Geraets-Smits v Stichting Ziekenfonds VGZ* and H.T.M Peerbooms v Stichting CZ Groep Zorgverzekeringen) and enable rights to be enjoyed relating to the freedom to provide services. They also make provision for the purpose of dealing with matters arising out of or related to such obligations or rights with regard to the rest of the world.

Regulation 3(1) amends section 3 of the 1977 Act by expressly enabling the Secretary of State to provide anything listed in subsection (1) outside England and Wales.

Regulation 3(2) repeals section 5(2)(b) of the 1977 Act.

Regulation 4 adds a new paragraph 15A to Schedule 2 to the 1990 Act enabling NHS Trusts to arrange for the provision of accommodation and services outside England and Wales.

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