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SCOTTISH STATUTORY INSTRUMENTS

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**1999 No. 121**

**The National Health Service (Penalty Charge) (Scotland) Regulations 1999**

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the National Health Service (Penalty Charge) (Scotland) Regulations 1999 and shall come into force on 16th November 1999.

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

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

“surcharge” has the meaning given in regulation 4 of these Regulations.

**Service of a penalty notice**

2.—(1) Where a person fails to pay any amount referred to in section 99ZB(1)(a) or (b) of the Act(1), the responsible authority may serve a penalty notice requiring the person, within the period of 28 days beginning with the date on which the penalty notice was sent, to pay that amount to the responsible authority together with a penalty charge determined in accordance with regulation 3 of these Regulations.

(2) A penalty notice shall be sent by post to the person’s last known address.

(3) The penalty notice shall state—

(a) the name of the person liable to pay the amount required to be paid under the penalty notice;

(b) the amount recoverable as mentioned in section 99ZB(1)(a) or (b) of the Act;

(c) the amount of the penalty charge calculated in accordance with regulation 3 of these Regulations;

(d) the sum of the amounts referred to in sub-paragraphs (b) and (c), which shall represent the total amount required to be paid under the penalty notice;

(e) in relation to the total amount required to be paid under the penalty notice—

(i) the responsible authority to whom that amount shall be paid;

(ii) the address to which that amount shall be sent;

(iii) the methods by which payment may be made; and

(iv) in accordance with paragraph (1), the date by which that amount shall be paid to the responsible authority;

(f) that if the person fails to pay the amount he is required to pay by the date specified in the penalty notice—

(i) the person must also pay to the responsible authority a surcharge; and

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(1) Section 99ZB applies to charges and payments which may under section 99 or 99ZA of the Act be recovered from a person in respect of the provision of those goods and services listed in section 99ZA(7); section 99ZA was inserted by the 1999 Act, section 59. Such charges include charges which may be made and recovered for dental treatment provided in accordance with pilot schemes under section 20 of the National Health Service (Primary Care) Act 1977 (c. 46); see section 99ZB(8).

- (ii) the amount of the surcharge he must pay, calculated in accordance with regulation 4(2) of these Regulations; and
- (g) that a person is not liable by virtue of a penalty notice—
  - (i) to pay at any time so much of any amount referred to in section 99ZB(1)(a) or (b) of the Act for which he is jointly and severally liable with another person as at that time has been paid, or ordered by a court to be paid, by that other person<sup>(2)</sup>, or
  - (ii) to a penalty charge, or a surcharge, if he shows that he did not act wrongfully, or with any lack of care, in respect of the amount recoverable as mentioned in section 99ZB(1)(a) or (b) of the Act<sup>(3)</sup>.

### Calculation of penalty charge

- 3. The amount of the penalty charge shall be whichever is the smaller of—
  - (a) £100, and
  - (b) the amount referred to in section 99ZB(1)(a) or (b) of the Act multiplied by 5.

### Surcharge

4.—(1) Where a person fails to pay the amount required to be paid under the penalty notice in accordance with regulation 2(1) of these Regulations, he shall in addition be liable to pay to the responsible authority a further sum (in these Regulations referred to as “a surcharge”), calculated in accordance with paragraph (2).

(2) The amount of the surcharge shall be 50% of the amount of the penalty charge (rounded down, where necessary, to the nearest whole penny).

St Andrew’s House,  
Edinburgh  
14th October 1999

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A member of the Scottish Executive

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(2) see section 99ZB(7)(a) of the Act.  
(3) see section 99ZB(7)(b) of the Act