

2006 No. 141

NATIONAL HEALTH SERVICE

**The National Health Service (Charges to Overseas Visitors)
(Scotland) Amendment Regulations 2006**

Made - - - - - *9th March 2006*

Laid before the Scottish Parliament *10th March 2006*

Coming into force - - - *1st April 2006*

The Scottish Ministers, in exercise of the powers conferred on them by sections 98, 105(7) and 108(1) of the National Health Service (Scotland) Act 1978(a) and of all other powers enabling them in that behalf, hereby make the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the National Health Service (Charges to Overseas Visitors) (Scotland) Amendment Regulations 2006 and shall come into force on 1st April 2006.

(2) In these Regulations—

- (a) “the Act” means the National Health Service (Scotland) Act 1978.
- (b) “the principal Regulations” means the National Health Service (Charges to Overseas Visitors) (Scotland) Regulations 1989(b).

Amendment of regulation 1 of the principal Regulations

2. In regulation 1(2) of the principal Regulations (citation, commencement and interpretation)—

(a) insert in the appropriate alphabetical places—

““dental list” means a list maintained by a Health Board in terms of regulations made under section 25(2)(c) of the Act;”;

““general dental services” is to be construed in accordance with section 25(1)(d) of the Act;”;

(a) 1978 c.29; section 98 was amended by the Health and Medicines Act 1988 (c.49), section 7(13) and (14); section 105(7), which was amended by the Health Services Act 1980 (c.53), Schedule 6, paragraph 5 and Schedule 7, by the Health and Social Services and Social Security Adjudications Act 1983 (c.41), Schedule 9, paragraph 24 and by the Health Act 1999 (c.8), Schedule 4, paragraph 60, contains provisions relevant to the exercise of the powers under which these Regulations are made; section 108(1) contains definitions of “prescribed” and “regulations” relevant to the exercise of the statutory powers under which these Regulations are made. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of section 53 of the Scotland Act 1998 (c.46).

(b) S.I. 1989/364 amended by S.I. 1992/411, 1994/1770, 1998/251 and S.S.I. 2004/369.

(c) Section 25(2) was extended by the Health and Medicines Act 1988 (c.49), section 17 and amended by the National Health Service and Community Care Act 1990 (c.19), section 40(2) and Schedule 9, paragraph 19(6), by the National Health Service (Primary Care) Act 1997 (c.46), (“the 1997 Act”), Schedule 2, paragraph 43 and Schedule 3 and by the Health Act 1999 (c.8), section 56(3).

(d) Section 25(1) was restricted in its application by the 1997 Act, section 1(5)(b).

““ophthalmic medical practitioner” means a medical practitioner having the qualifications prescribed under regulations made under section 26(1) of the Act(a);”; and

““ophthalmic list” means a list maintained by a Health Board in terms of regulations made under section 26(2)(b) of the Act;”; and

- (b) in the definition of “services forming part of the health service”, insert after “(accommodation and services)”, “or general dental services, or general ophthalmic services, or personal dental services”.

Amendment of regulation 2 of the Principal Regulations

3. In regulation 2 (making and recovery of charges) after paragraph (2) insert the following paragraphs—

“(3) Where an overseas visitor receives:—

- (a) general dental services in a Health Board’s area from a dental practitioner on that Health Board’s dental list, or
- (b) general ophthalmic services in a Health Board’s area from an ophthalmic medical practitioner or an ophthalmic optician on that Health Board’s ophthalmic list, or
- (c) personal dental services from a dental practitioner in terms of an agreement made with a Health Board under section 17C(c) of the Act or a pilot scheme under Part I of the National Health Service (Primary Care) Act 1997(d) (as the case may be),

the dental practitioner, ophthalmic medical practitioner or ophthalmic optician providing such general dental services, general ophthalmic services or personal dental services, having determined, by means of such enquiries as that person is satisfied are reasonable in all the circumstances, including the state of health of that overseas visitor, that the case is not one in which these Regulations provide for no charge to be made, shall make and recover from the person liable under regulation 7 charges for the provision of those services as such charges are determined by the Health Board.

(4) A dental practitioner, ophthalmic medical practitioner or ophthalmic optician who makes and recovers a charge in accordance with paragraph 3 shall give or send to the person making the payment a receipt for the amount paid”.

Amendment of regulation 3 of the principal Regulations

4. In regulation 3 of the principal Regulations (services exempted from charges)(e) in paragraph (b), insert after “hospital”—

“except in the case of general dental services, or general ophthalmic services, or personal dental services provided as mentioned in regulation 2(3).”.

Amendment of regulation 8 of the principal Regulations

5.—(1) In regulation 8(1) of the principal Regulations (repayments)(f), after “health service” insert “, other than general dental services, or general ophthalmic services, or personal dental services,”.

(a) Section 26(1) was amended by the Health and Social Security Act 1984 (c.48) section 1(7) and Schedule I Part II, paragraph 1, extended by the Health and Medicines Act 1988 (c.49) sections 17(1) and 13(4), and is amended by the 2005 Act, section 13(2) in terms of S.S.I. 2006/121 with effect from 1st April 2006.

(b) Section 26(2) is substituted by the Smoking Health and Social Care (Scotland) Act 2005 (asp 13) (“the 2005 Act”), section 19 in terms of S.S.I. 2006/121 with effect from 1st April 2006.

(c) Section 17C was inserted by the 1997 Act sections 21(2) and 41(3). Relevant amendments are the Primary Medical Services (Scotland) Act 2004, asp 1, section 2(2)(a), 2(2)(b), 2(2)(c), 2(2)(d) and 2(2)(e).

(d) 1997 c.46.

(e) Regulation 3 was amended by S.I. 1992/411 and 1994/1770.

(f) Regulation 8 was amended by S.I. 1992/411.

(2) In regulation 8 after paragraph (2) insert the following paragraphs–

“(3) Where a sum has been paid as a charge for general dental services, general ophthalmic services or personal dental services forming part of the health service by or on behalf of a person who, at the time the services were provided for such person, was not an overseas visitor in respect of whom, or did not receive services for which, such a charge was payable, a claim for repayment of the sum may be made by presenting to the person by whom the charge was made and recovered–

- (a) the receipt for payment of such sum;
- (b) a declaration in support of the claim signed by or on behalf of the claimant; and
- (c) such evidence in support of the declaration as that person may require.

(4) The person who made and recovered the charge, if satisfied by the evidence so produced that the sum to which the receipt relates was not payable by virtue of these Regulations, shall repay to the claimant the amount of any such sum.”.

LEWIS MACDONALD

Authorised to sign by the Scottish Ministers

St Andrew’s House,
Edinburgh
9th March 2006

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations further amend the National Health Service (Charges to Overseas Visitors) (Scotland) Regulations 1989 (“the principal Regulations”) to provide for the making and recovery of charges in respect of certain services provided under the National Health Service (Scotland) Act 1978 to certain persons not ordinarily resident in the United Kingdom (“overseas visitors”).

Regulation 2(a) inserts definitions of “dental list”, “general dental services” “ophthalmic list” and “ophthalmic medical practitioner” into regulation 1(2) of the principal Regulations (citation, commencement and interpretation).

Regulation 2(b) extends the definition of “services forming part of the health service” in regulation 1(2) of the principal Regulations for which charges may be made to include general dental services, general ophthalmic services and personal dental services.

Regulation 3 provides that any dental practitioner, ophthalmic medical practitioner or ophthalmic optician who provides general dental services, general ophthalmic services or personal dental services to an overseas visitor who is not exempt from payment of charges in terms of the principal Regulations shall recover from the person liable to pay such charges for those services as are determined by the relevant Health Board.

Regulation 4 amends regulation 3(b) of the principal Regulations to provide that the provision that no charge shall be made in respect of any services forming part of the health service provided for an overseas visitor otherwise than at, or by staff employed to work at, or under the direction of, a hospital, shall not apply to the provision of general dental services, general ophthalmic services or personal dental services.

Regulation 5 amends regulation 8 of the principal Regulations to provide that if a person has paid a charge which was not properly payable in terms of the regulations, the person who made and recovered the charge shall repay it.

£3.00

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