

**EXPLANATORY MEMORANDUM TO**  
**THE NATIONAL HEALTH SERVICE (CHARGES FOR DRUGS AND**  
**APPLICANCES) AND (TRAVEL EXPENSES AND REMISSION OF CHARGES)**  
**AMENDMENT (No.2) REGULATIONS 2008**

**2008 No. 1697**

**1.** This explanatory memorandum has been prepared by the Department of Health and is laid before Parliament by Command of Her Majesty.

**2. Description**

These Regulations amend (a) the National Health Service (Charges for Drugs and Appliances) Regulations 2000 and (b) the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003.

**3. Matters of special interest to the Joint Committee on Statutory Instruments *or* the Select Committee on Statutory Instruments**

3.1 None

**4. Legislative Background**

4.1 These regulations amend the National Health Service (Charges for Drugs and Appliances) Regulations 2000 in the following manner:

i) Add a new definition of optometrist independent prescribers.

4.2 These regulations amend the National Health Service (Travel Expenses and Remission of Charges) Regulations 2003 in the following manner:

i) Provide that a person (or a member of that person's family) receiving income-related employment and support allowance will be entitled to the full remission of an NHS charge and the full payment of NHS travel expenses without needing to make a claim for such remission or payment.

ii) Update the reference to the publication which describes additional loans paid under the Education (Student Loans) (Scotland) Regulations 2007.

**5. Territorial Extent and Application**

5.1 This instrument applies to England.

## **6. European Convention on Human Rights**

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

## **7. Policy background**

7.1. Optometrists: The Department has accepted the recommendation of the Commission on Human Medicines that optometrists should be able to train to become independent prescribers. This is part of the overall programme of work to improve patients' access to medicines and to better use the skills of NHS professional staff which has seen nurses and pharmacists also become independent prescribers. Regulation changes are needed so that dispensing pharmacists can levy the appropriate prescription charge against NHS prescriptions written by optometrist independent prescribers.

7.2 Income related Employment and Support Allowance (ESA): The Welfare Reform Act 2007 will come into force on 27 October 2008. Section 1 of the Act introduces a new benefit, ESA, for claimants having limited capacity to work. ESA will replace both Incapacity Benefit which is based on National Insurance contributions and Income Support based on incapacity which is income based. Currently claimants of Income Support are entitled to full remission of NHS charges and the payment of NHS travel costs. This amendment ensures that those receiving income related ESA continue to receive the same entitlement once the new benefit is introduced.

7.3 Students: This amendment updates the reference to the publication which describes the additional loan (which is to be disregarded from a student's loan income in calculating a student's entitlement to the remission of NHS charges and the payment of NHS travel expenses), inserted by a previous amending instrument, in line with updated guidance issued by the Student Awards Agency for Scotland for 2008-09 and the consolidated version of the Education (Student Loans)(Scotland) Regulations 2007.

## **8. Impact**

8.1 An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

## **9. Contact**

**Eleanor Shenton** at the Department of Health Tel: 020 7972 2923 or e-mail: [eleanor.shenton@dh.gsi.gov.uk](mailto:eleanor.shenton@dh.gsi.gov.uk) can answer any queries regarding the instrument.