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WELSH STATUTORY INSTRUMENTS

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**2007 No. 1112 (W.117)**

**NATIONAL HEALTH SERVICE, WALES**

**The National Health Service (Pharmaceutical Services)  
(Remuneration for Persons providing Pharmaceutical  
Services) (Amendment) (Wales) Regulations 2007**

*Made - - - - 27 March 2007  
Coming into force in accordance with regulation 1(2)  
of these Regulations*

The National Assembly for Wales, in exercise of the powers conferred by sections 88 and 203(9) and (10) of the National Health Service (Wales) Act 2006(1) hereby makes the following Regulations:

**Title, commencement and application**

1.—(1) The title of these Regulations is the National Health Service (Pharmaceutical Services) (Remuneration for persons providing Pharmaceutical Services) (Amendment) (Wales) Regulations 2007.

(2) These Regulations come into force immediately following the coming into force of the National Health Service (Free Prescriptions and Charges for Drugs and Appliances) (Wales) Regulations 2007(2) on 1 April 2007.

(3) These Regulations apply in relation to Wales.

**Interpretation**

2. In these Regulations—

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- (1) The National Health Service (Wales) Act 2006 (c. 42) (“the 2006 Act”) is a consolidation Act which repeals and re-enacts in its entirety the National Health Service Act 1977 (c. 49) (“the 1977 Act”) and incorporates some of the provisions from the National Health Service and Community Care Act 1990 (c. 19), the Health Act 1999 (c. 8), the Health and Social Care Act 2001 (c. 15), the National Health Service Reform and Health Care Professions Act 2002 (c. 17), the Health and Social Care (Community Health and Standards) Act 2003 (c. 43) and the Health Act 2006 (c. 8).  
Sections 88 and 203(9) and (10) are equivalent to sections 43A and 126(4) of the 1977 Act.  
The references to and the functions of “Welsh Ministers” in the 2006 Act are treated as references to and functions of the National Assembly for Wales as constituted by the Government of Wales Act 1998 (c. 38) in accordance with the modifications contained in the National Health Service (Consequential Provisions) Act 2006 (c. 43), section 5 and paragraph 10 of Schedule 3.  
References to and functions of the National Assembly for Wales will transfer to Welsh Ministers immediately after the end of the “initial period” (as defined in section 161(5)) in accordance with sections 162 of and paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).
- (2) S.I.2007/121 (W.11).

“the Charges for Drugs and Appliances Regulations” means the National Health Service (Free Prescriptions and Charges for Drugs and Appliances) (Wales) Regulations 2007;

“the Indicative Amounts Regulations” means the National Health Service (Indicative Amounts) Regulations 1997(3);

“the Prescribed Functions Regulations” means the National Health Service (Payments by Local Authorities to Health Authorities) (Prescribed Functions) (Wales) Regulations 2001(4);

“the principal Regulations” means the National Health Service (Pharmaceutical Services) Regulations 1992(5).

### **Amendment of regulation 2 of the principal Regulations**

3. In regulation 2(1) of the principal Regulations (interpretation), in the appropriate place in the alphabetical order, insert—

““the 2006 Act” means the National Health Service (Wales) Act 2006(6);”.

### **Substitution of regulation 18 of the principal Regulations**

4. For regulation 18 of the principal Regulations (standards of, and payments for, drugs and appliances) substitute—

#### **“Provisions relating to determinations under section 88 of the 2006 Act**

18. With regard to determining remuneration under section 88 of the 2006 Act—

- (a) determinations under that section by the National Assembly for Wales (the aggregate of the determinations made by the National Assembly for Wales, acting as a determining authority, is known as “the Drug Tariff”) may be made by reference to rates or conditions of remuneration of any persons or any description of persons which are fixed or determined, or will be fixed or determined, otherwise than by way of a determination under that section;
- (b) determinations under that section by the National Assembly for Wales may be made by reference to scales, indices or formula of any kind, and where a determination falls to be made by reference to any such scale, index or formula, the determination may provide that the relevant price calculation is to be made by reference to the scale, index or formula which is—
  - (i) in the form current at the time of the determination, and
  - (ii) in any subsequent form taking effect after that time;
- (c) determining authorities may make determinations which take effect in relation to remuneration in respect of a period beginning on or after the date specified in the determination, which may be the date of the determination or an earlier or later date, but it may be an earlier date only if, taking the determination as a whole, it is not detrimental to the persons to whose remuneration it relates;
- (d) where a determination included in the Drug Tariff does not specify a date as mentioned in paragraph (c), it will have effect in relation to remuneration in respect of the period beginning on the date on which the change to the Drug Tariff is published;

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(3) S.I.1997/980; relevant amending instrument is S.I.2005/641.

(4) S.I.2001/1543 (W.108).

(5) S.I.1992/662.

(6) 2006 c. 42.

- (e) the National Assembly for Wales will publish the Drug Tariff, and any amendments to it, in such format as it thinks fit (including, as regards publishing any amendments, by publishing a consolidated version of the Drug Tariff with the amendments included in it) and at such intervals as it thinks fit (having regard to the provisions of paragraphs (c) and (d));
- (f) consultation pursuant to section 89(1) by a determining authority prior to the inclusion of or a change to the price of a drug or appliance will be by way of consultation on the process for determining the price to be included or changed, not on the proposed price itself (unless it is impossible to carry out an effective consultation in any other way);
- (g) where the National Assembly for Wales states in the Drug Tariff that the determining authority for a particular fee, allowance or other remuneration is to be the Local Health Board of the chemist to whom the remuneration relates—
  - (i) the Local Health Board must consult the relevant Local Pharmaceutical Committee<sup>(7)</sup> before making the determination; and
  - (ii) the determination made by the Local Health Board must include the arrangements for claiming the remuneration and will be published by the Local Health Board in such manner as it thinks suitable for bringing the determination to the attention of the chemists on its pharmaceutical list; and
- (h) payments under—
  - (i) the Drug Tariff must be made by the Local Health Board, in accordance with arrangements for claiming and making payments which are to be set out in the Drug Tariff, and
  - (ii) a determination mentioned in paragraph (g) must be made by the Local Health Board, in accordance with arrangements for claiming and making payments set which are to be set out in the determinations,but are in either case to be subject, as appropriate, to any deduction that may or must be made from the remuneration of a chemist under these Regulations, the 2006 Act or any other Regulations under the 2006 Act.”

#### **Amendment of regulation 18A of the principal Regulations**

5. In regulation 18A of the principal Regulations (payments to suspended chemists), omit paragraph (4).

#### **Amendment of regulation 22 of the principal Regulations**

6. In regulation 22(1)(e) of the principal Regulations (publication of particulars), for the words “determinations made by the Health Authority by virtue of regulation 18(1A)” substitute “determinations made by the Local Health Board as a consequence of regulation 18(g)”.

#### **Amendment of regulation 24 of the principal Regulations**

7. In regulation 24(1) of the principal Regulations (claims and overpayments), for the words “made by the Health Authority by virtue of regulation 18(1A)” substitute “made by the Local Health Board as a consequence of regulation 18(g)”.

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(7) In Wales the functions of Local Pharmaceutical Committees (as provided for in section 90 of the 2006 Act) are performed by the committees of Community Pharmacy Wales.

### **Amendment of paragraph 22 of Schedule 2 to the principal Regulations**

8. In paragraph 22(4) of Schedule 2 to the principal Regulations (matters to be considered when issuing directions in respect of pharmacy opening hours), for the words “under the Drug Tariff” substitute “in accordance with a determination made as a consequence of regulation 18(g)”.

### **Amendment of the Indicative Amounts Regulations**

9. In regulation 1(2) of the Indicative Amounts Regulations (interpretation), for the definition of “Drug Tariff”, substitute—

““Drug Tariff” means the aggregate of the determinations made by the National Assembly for Wales which are published in accordance with regulation 18(e) of the National Health Service (Pharmaceutical Services) Regulations 1992 (provisions relating to determinations);”.

### **Amendment of the Prescribed Functions Regulations**

10. In regulation 2(2) of the Prescribed Functions Regulations (prescribed functions of Health Authorities in Wales), for sub-paragraph (d) substitute the following sub-paragraph—

“(d) the provision of appliances which are not listed in Part IX of Drug Tariff which is published in accordance with regulation 18(e) of the National Health Service (Pharmaceutical Services) Regulations 1992 (provisions relating to determinations).”.

### **Amendment of the Charges for Drugs and Appliances Regulations**

11. In regulation 2(1) of the Charges for Drugs and Appliances Regulations (interpretation), for the definition of Drug Tariff, substitute the following definition—

““Drug Tariff (“*Tariff Cyffuriau*”) means the aggregate of the determinations made by the National Assembly for Wales which are published in accordance with regulation 18(e) of the National Health Service (Pharmaceutical Services) Regulations 1992 (provisions relating to determinations);”.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(8)

Date

*D. Elis-Thomas*  
The Presiding Officer of the National Assembly

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## EXPLANATORY NOTE

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

These Regulations further amend the National Health Service (Pharmaceutical Services) Regulations 1992 ([S.I.1992/662](#)) (“the principal Regulations”) and make consequential amendments to other secondary legislation.

Regulation 4 of these Regulations substitutes regulation 18 of the principal Regulations. This substitution is required because of the changes to the legislative basis upon which determinations relating to the remuneration for persons providing pharmaceutical services are made as a result of the coming into force of the National Health Service (Wales) Act 2006. The substituted regulation 18 contains provisions relating to the determination of remuneration for persons providing pharmaceutical services by the determining authorities.

Regulation 3 and regulations 5 to 11 make consequential amendments to the principal Regulations and to other relevant secondary legislation.