

SCHEDULES

SCHEDULE 15

Articles 42(2), 98(2).

CHARGES IN RESPECT OF CERTAIN SERVICES, AND OTHER RELATED MATTERS

1. Regulations made with the approval of the Ministry of Finance may provide—
 - (a) for the making and, subject to the provisions of paragraphs 3 and 4, the recovery, in such manner as may be prescribed, of—
 - [^{F1}(i) such charges as may be prescribed in respect of such services (other than services provided as part of the general dental services) provided under this Order[^{F2} or the 1991 Order] as may be prescribed;
 - (ia) a charge of an amount calculated in accordance with paragraph 1A in respect of any services provided as part of the general dental services, not being—
 - (a) the repair of appliances other than prescribed appliances; or
 - (b) the arrest of bleeding;
 - (iaa) charges of amounts calculated in accordance with paragraph 1A in respect of the supply under this Order of dentures and other dental appliances of prescribed descriptions;]
 - (ii) charges, other than charges under Article 61(2)(*d*)^{F3}. . . in respect of the extra expense involved in the supply, at the request of the person supplied, of any appliance or vehicle which is of a more expensive type than that which would normally be supplied, or the replacement or repair of any such appliance, or, as the case may require, the replacement, repair or maintenance of any such vehicle; or
 - (iii) charges, other than charges under Article 61(2)(*d*)^{F3}. . . in respect of the replacement of any appliance or vehicle supplied, the repair of any appliance supplied or the repair or maintenance of any vehicle supplied, if it is determined in the prescribed manner that the replacement, repair or maintenance, as the case may be, is necessitated by an act or omission of the person supplied or (if it occurred when he was under sixteen years of age) of his or of the person having charge of him when it occurred;
 - (b) for the remission or repayment of[^{F4} such charges in respect of persons of such descriptions] as may be prescribed;
 - (c) for the grant, on payment of such sums as may be prescribed, of certificates conferring on the persons to whom the certificates are granted exemption from charges otherwise exigible under the regulations in respect of drugs, medicines and appliances supplied during such period as may be prescribed.

F1	1988 NI 24
F2	1991 NI 1
F3	1984 NI 8
F4	1988 NI 2

Status: Point in time view as at 01/01/2006.

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[^{F5}**1A.**—(1) Subject to the following provisions of this paragraph, regulations made with the approval of the Department of Finance and Personnel may make such provision as to the amount of any charge—

- (a) authorised by paragraph 1(a)(ia) for the provision of services; or
 - (b) authorised by paragraph 1(a)(iaa) for the supply of dentures or other dental appliances,
- as appears to the Department to be appropriate.

(2) Without prejudice to the generality of sub#paragraph (1), regulations may provide that any charge which is so authorised in respect of appliances or services supplied or provided under Part VI—

- (a) shall be of an amount equal—
 - (i) to the practitioner's remuneration in respect of the supply or provision; or
 - (ii) to any part of that remuneration; or
- (b) shall be otherwise calculated by reference to that remuneration.

(3) Without prejudice to the generality of sub#paragraph (1), regulations may provide that any charge which is authorised in respect of appliances supplied otherwise than under Part VI—

- (a) shall be of an amount equal—
 - (i) to the remuneration a practitioner would receive for a supply under that Part of equivalent appliances; or
 - (ii) to any part of such remuneration; or
- (b) shall be otherwise calculated by reference to such remuneration.

(4) The charge shall not exceed the amount which the Department considers to be the cost to health services of the supply or provision.

(5) In this paragraph “cost to health services” does not include—

- (a) any fee in respect of a visit by a practitioner to a patient;
- (b) any fee in respect of the exceptional attendance by a practitioner at his surgery in order to provide emergency treatment; or
- (c) any fee or part of a fee payable by a patient in pursuance of regulations under Article 61(2) (d) or (3).]

F5 1988 NI 24

[^{F6}**1B.**—(1) Descriptions of persons may be prescribed for the purposes of paragraph 1(b) by reference to any criterion and, without prejudice to the generality of this sub#paragraph, by reference to any of the following criteria—

- (a) their age;
- (b) the fact that a prescribed person or a prescribed body accepts them as suffering from a prescribed medical condition;
- (c) the fact that a prescribed person or a prescribed body accepts that a prescribed medical condition from which they suffer arose in prescribed circumstances;
- (d) their receipt of benefit in money or in kind under any transferred provision or their entitlement to receive any such benefit;

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- (e) the receipt of any such benefit by other persons satisfying prescribed conditions or the entitlement of other persons satisfying prescribed conditions to receive such benefits; and
 - (f) the relationship, as calculated in accordance with the regulations by a prescribed person, between their resources and their requirements.
- (2) Regulations under this paragraph may direct how a person's resources and requirements are to be calculated and, without prejudice to the generality of this sub#paragraph, may direct that they shall be calculated—
- (a) by a method set out in the regulations; or
 - (b) by a method described by reference to a method of calculating or estimating income or capital specified in a transferred provision other than this paragraph or by reference to such a method but subject to prescribed modifications; or
 - (c) by reference to an amount applicable for the purposes of a payment under a transferred provision; or
 - (d) by reference to the person's being or having been entitled to payment under a transferred provision.
- (3) Regulations under this paragraph which refer to a transferred provision may direct that the reference is to be construed as a reference to that provision—
- (a) as it has effect at the time when the regulations are made; or
 - (b) both as it has effect at that time and as amended subsequently.]

F6 1988 NI 2

2. Regulations made under paragraph 1 may provide that sums which would otherwise be payable by the Health and Social Services Boards to persons by whom any services are provided are to be reduced by the amount of the charges prescribed in respect of those services.

[^{F7}2A.—(1) The Department shall by regulations provide for payments to be made by the Department or by a Health and Social Services Board or the Agency to meet, or to contribute towards, the cost incurred (whether by way of charge under this Order or otherwise) for the supply of optical appliances for which a prescription has been given in consequence of a testing of sight under this Order—

- (a) for a child;
- (b) for a person whose resources fall to be treated under the regulations as being less than his requirements; or
- (c) for a person of such other description as may be prescribed

[^{F8}or for which a prescription has been given for a person such as is mentioned in head (a), (b) or (c) in consequence of a testing of sight (not being a testing of sight under this Order) which took place in prescribed circumstances].

- (2) In sub-paragraph (1), “child” means—
- (a) a person who is under the age of 16 years; or
 - (b) a person who is under the age of 19 years and receiving qualifying full-time education.
- (3) In sub-paragraph (2), “qualifying full-time education” means full-time instruction—
- (a) at an educational establishment recognised by the Department as being, or as comparable to, a school, college or university; or
 - (b) by other means accepted as comparable by the Department;

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and for the purposes of this paragraph regulations may prescribe the circumstances in which a person is or is not to be treated as receiving full-time instruction.

[
F⁸(4) The Department may by regulations—

- (a) provide for the Department or a Health and Social Services Board or the Agency to contribute to the cost of a testing of sight which the Department, the Board or the Agency accepts as having been incurred by a person whose resources fall to be treated under the regulations as exceeding his requirements but only by an amount calculated under the regulations;
- (b) provide for payments to be made by the Department or a Health and Social Services Board or the Agency to meet, or to contribute towards, any costs accepted by the Department, the Board or the Agency as having been incurred (whether by way of charge under this Order or otherwise) for the replacement or repair in prescribed circumstances of optical appliances for which a prescription was given in consequence of a testing of sight of a person of a prescribed description; and
- (c) direct how a person's resources and requirements are to be calculated and, without prejudice to the generality of this head, give any such direction as to how they are to be calculated as may be given by regulations under paragraph 1B(2).

(4A) Descriptions of person may be prescribed under this paragraph by reference to any criterion and, without prejudice to the generality of this sub#paragraph, by reference to any of the criteria specified in paragraph 1B(1).

(4B) Sub#paragraph (3) of paragraph 1B shall have effect in relation to regulations under this paragraph as it has effect in relation to regulations under that paragraph.]]

F7	1984 NI 8
F8	1988 NI 24

3. Subject to paragraph 4, any charges under this Order shall, without prejudice to any other method of recovery, be a debt recoverable summarily.

4. Any person entitled to recover charges under this Order may, by agreement with the governing body of any association or fund established for the purpose of providing benefits to members or other beneficiaries thereof, accept from the association or fund, in respect of any charges payable under this Order by or in respect of any member or beneficiary of the association or fund, payment of such sums as may be provided by the agreement in lieu of recovering the whole or any part of such charges from, or from the estate of, such member or beneficiary or from any person liable therefor.

[F⁹5.—(1) Where goods or services are provided under this Order and either—

- (a) any charge payable by any person under this Order in respect of the provision of the goods or services is reduced, remitted or repaid, but that person is not entitled to the reduction, remission or repayment; or
- (b) any payment under this Order is made to, or for the benefit of, any person in respect of the cost of obtaining the goods or services, but that person is not entitled to, or to the benefit of, the payment,

the amount mentioned in sub-paragraph (2) is recoverable summarily as a debt from the person in question by the responsible authority.

(2) That amount—

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- (a) in a case within sub-paragraph (1)(a), is the amount of the charge or (where it has been reduced) reduction;
 - (b) in a case within sub-paragraph (1)(b), is the amount of the payment.
- (3) Where two or more persons are liable under paragraph 3 or this paragraph to pay an amount in respect of the same charge or payment, those persons shall be jointly and severally liable.
- (4) For the purposes of this paragraph, the circumstances in which a person is to be treated as not entitled to a reduction, remission or repayment of a charge, or to (or to the benefit of) a payment, include in particular those in which it is received (wholly or partly)—
- (a) on the ground that he or another is a person of a particular description, where the person in question is not in fact of that description;
 - (b) on the ground that he or another holds a particular certificate, when the person in question does not in fact hold such a certificate or does hold such a certificate but is not entitled to it;
 - (c) on the ground that he or another has made a particular statement, when the person in question has not made such a statement or the statement made by him is false.
- (5) In this paragraph and paragraph 6, “responsible authority” means—
- (a) in relation to the recovery of any charge under paragraph 3 in respect of the provision of goods or services under this Order, the person by whom the charge is recoverable;
 - (b) in relation to the recovery by virtue of this paragraph of the whole or part of the amount of any such charge, the person by whom the charge would have been recoverable;
 - (c) in a case within sub-paragraph (1)(b), the person who made the payment.
- (6) But the Department may by directions provide for—
- (a) the functions of any responsible authority of recovering any charges under this Order in respect of the provision of goods or services under this Order;
 - (b) the functions of any responsible authority under this paragraph and paragraph 6,
- to be exercised on behalf of the authority by another health services body.]

F9 2001 c. 3 (NI)

- 6.—(1)** Regulations may provide that, where a person fails to pay—
- (a) any amount recoverable from him under paragraph 3 in respect of the provision of goods or services under this Order; or
 - (b) any amount recoverable from him under paragraph 5,
- a notice (referred to in this paragraph as a penalty notice) may be served on the person by the responsible authority requiring him to pay to the authority, within a prescribed period, that amount together with a charge (referred to in this paragraph as a penalty charge) of an amount determined in accordance with the regulations.
- (2) The regulations may not provide for the amount of the penalty charge to exceed whichever is the smaller of—
- (a) £100;
 - (b) the amount referred to in sub-paragraph (1)(a) or (b) multiplied by 5.
- (3) The Department may by order provide for sub-paragraph (2) to have effect as if, for the sum specified in head (a) or the multiplier specified in head (b) (including that sum or multiplier as substituted by a previous order), there were substituted a sum or (as the case may be) multiplier specified in the order.

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(4) Regulations may provide that, if a person fails to pay the amount he is required to pay under a penalty notice within the period in question, he must also pay to the responsible authority by way of penalty a further sum determined in accordance with the regulations.

(5) The further sum must not exceed 50 per cent of the amount of the penalty charge.

(6) Any sum payable under the regulations (including the amount referred to in sub-paragraph (1) (a) or (b)) may be recovered by the responsible authority summarily as a debt.

(7) But a person is not liable by virtue of a penalty notice—

(a) to pay at any time so much of any amount referred to in sub-paragraph (1)(a) or (b) for which he is jointly and severally liable with another as at that time has been paid, or ordered by a court to be paid, by that other; or

(b) to a penalty charge, or a further sum by way of penalty, if he shows that he did not act wrongfully, or with any lack of care, in respect of the charge or payment in question.

(8) No order shall be made under sub-paragraph (3) unless a draft has been laid before, and approved by resolution of the Assembly.

7.—(1) A person is guilty of an offence if he does any act mentioned in paragraph (2) with a view to securing for himself or another—

(a) the evasion of the whole or part of any charge under this Order in respect of the provision of goods or services under this Order;

(b) the reduction, remission or repayment of any such charge, where he or (as the case may be) the other is not entitled to the reduction, remission or repayment;

(c) a payment under this Order (whether to, or for the benefit of, himself or the other) in respect of the cost of obtaining such goods or services, where he or (as the case may be) the other is not entitled to, or to the benefit of, the payment.

(2) The acts referred to in sub-paragraph (1) are—

(a) knowingly making, or causing or knowingly allowing another to make, a false statement or representation; or

(b) in the case of any document or information which he knows to be false in a material particular, producing or providing it or causing or knowingly allowing another to produce or provide it.

(3) A person guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(4) A person, although he is not a barrister or solicitor, may conduct any proceedings under this paragraph before a magistrates' court if he is authorised to do so by the Department.

(5) Proceedings for an offence under this paragraph may be begun within either of the following periods—

(a) the period of three months beginning with the date on which evidence, sufficient in the opinion of the Department to justify a prosecution for the offence, comes to its knowledge;

(b) the period of 12 months beginning with the commission of the offence.

(6) For the purposes of sub-paragraph (5), a certificate purporting to be signed by or on behalf of the Department as to the date on which such evidence as is mentioned in head (a) of that sub-paragraph came to its knowledge is conclusive evidence of that date.

(7) Where, in respect of any charge or payment under this Order—

(a) a person is convicted of an offence under this paragraph; or

(b) a person pays any penalty charge, and any further sum by way of penalty, recoverable from him under paragraph 6,

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he shall not, in a case within head (a), be liable to pay any such penalty charge or further sum by way of penalty or, in a case within head (b), be convicted of such an offence.

(8) Sub-paragraph (4) of paragraph 5 applies for the purposes of this paragraph as it applies for the purposes of that paragraph.

9. Without prejudice to any other provision of this Schedule, it shall be lawful for the Ministry^{F10} or an HSS trust] to require any person, for whom the Ministry^{F10} or the HSS trust] is providing services under this Order^{F10} or the 1991 Order] as an in-patient in hospital and who is absent during the day from the hospital where he is a patient for the purpose of engaging in employment for which he is remunerated, to pay such part of the cost of his maintenance in the hospital, and any costs incidental thereto, as may seem to the Ministry^{F10} or the HSS trust] to be reasonable having regard to the amount of the remuneration, and the provisions of this Schedule with respect to the recovery of charges shall apply to the recovery of any payment so required.

F10 1991 NI 1

10. Nothing in Article 98(1) shall operate to restrict the making of provision under this Schedule for the making and recovery of charges or payments in respect of any accommodation or services provided under this Order^{F11} or the 1991 Order].

F11 1991 NI 1

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