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SCOTTISH STATUTORY INSTRUMENTS

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**2001 No. 67**

**NATIONAL HEALTH SERVICE**

**The National Health Service (Charges for Drugs and Appliances) (Scotland) Amendment Regulations 2001**

<i>Made</i>	- - - -	<i>15th March 2001</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>16th March 2001</i>
<i>Coming into force</i>	- -	<i>1st April 2001</i>

The Scottish Ministers, in exercise of the powers conferred by sections 69(1) and (2), 75A(1), 105(7) and 108(1) of the National Health Service (Scotland) Act 1978(1), 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 for Drugs and Appliances) (Scotland) Amendment Regulations 2001 and shall come into force on 1st April 2001.

(2) In these Regulations, “the principal Regulations” means the National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations 1989(2).

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

2.—(1) Regulation 2 of the principal Regulations (interpretation) is amended as follows.

(2) In paragraph (1), after the definition of “terms of service” there is inserted—

““The Travelling Expenses and Remission of Charges Regulations” means the National Health Service (Travelling Expenses and Remission of Charges) (Scotland) Regulations 1988(3).”

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- (1) 1978 c. 29; section 75A was inserted by the Social Security Act 1988 (c. 7), section 14 and amended by the Health and Medicines Act 1988 (c. 49), Schedule 2, paragraph 13 and the National Health Service and Community Care Act 1990 (c. 19), Schedule 9, paragraph 19(13) and by the National Health Service (Primary Care) Act 1997 (c. 46), Schedule 2, paragraph 50; section 105(7), which contains provisions relevant to the making of regulations was amended by the Health Services Act 1980 (c. 53), Schedule 6, paragraph 5 and Schedule 7 and 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; 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).
- (2) S.I. 1989/326, relevant amending instruments are S.I. 1990/468 and 787, 1991/574, 1992/394, 1993/522, 1994/697, 1995/699 and 2739, 1996/740, 1997/697, 1998/609, 1999/612 and S.S.I. 2000/50.
- (3) S.I. 1998/546 as amended by S.I. 1989/393 and 616, 1990/551, 917, 1665 and 575, 1992/754, 1993/642 and 2049, 1995/700 and 2381, 1996/429 and 2391, 1997/1012 and 2455 and 1998/2772 and S.S.I. 1999/63 and 2000/79.

(3) In paragraph (1A)(4)–

- (a) in sub-paragraph (a) for “Nurses, Medicines and Health Visitors Rules 1983” there is substituted “Nurses, Midwives and Health Visitors Rules 1983”;
- (b) in sub-paragraph (b) for “nurse” in each place where it occurs there is substituted “health visitor”.

#### **Amendments to the principal Regulations: amounts specified**

3.—(1) In regulation 3(1)(b) of the principal Regulations (supply of drugs and appliances by chemists), for the figure “£6.00” there is substituted the figure “£6.10”.

(2) Subject to regulation 5 below, in regulation 8(5) of the principal Regulations (pre-payment certificates)–

- (a) for the figure “£31.40” there is substituted the figure “£31.90”; and
- (b) for the figure “£86.20” there is substituted the figure “£87.60”.

(3) For Schedules 1, 2 and, subject to regulation 5 below, 3 to the principal Regulations there is substituted those Schedules as set out in the Schedule to these Regulations.

#### **Amendment of regulation 8 of the principal Regulations**

4.—(1) Regulation 8 of the principal Regulations (pre-payment certificates) is amended in accordance with the following paragraphs.

(2) In paragraph (6) for “paragraphs (7) and (8)” there shall be substituted “paragraphs (13) to (15)”.

(3) Paragraphs (7) and (8) are deleted and after paragraph (6) there is added the following—

“(7) Where payment of a prescribed sum has been made and where, on or after 1st April 2001, the person in respect of whom the payment was made dies or becomes resident in a hospital and thereafter dies during the relevant period as defined in paragraph (9) an application for a refund may be made, by or on behalf of that person or his estate, in accordance with paragraphs (13) to (15).

(8) The refund referred to in paragraph (7) shall be calculated as follows:

- (a) in the case of a pre-payment certificate valid for 4 months,  $\frac{1}{4}$  of the prescribed sum paid for each complete month during which the pre-payment certificate is or was valid;
- (b) in the case of a pre-payment certificate valid for 12 months  $\frac{1}{12}$  of the prescribed sum paid for each complete month during which the pre-payment certificate is or was valid;

and for the purposes of these calculations a complete month is a month beginning on the monthly anniversary of the date on which the pre-payment certificate became valid and ending on the date immediately preceding that date in the following month.

(9) In paragraph (7) “the relevant period” means the period of validity of the pre-payment certificate excluding the month in respect of which an application under paragraph (6) may be made.

(10) Where payment of a prescribed sum in respect of a pre-payment certificate valid for 12 months has been made and where, on or after 1st April 2001, and during the relevant period defined in paragraph (12), the person in respect of whom the payment was made–

(a) becomes a person to whom any of the provisions of regulation 7(1)(b) to (f) applies, or

(b) becomes a person entitled to remission under regulation 3 of the Travelling Expenses and Remission of Charges Regulations

an application for a refund may be made, by or on behalf of that person or his estate in accordance with paragraphs (13)-(15).

(11) The refund referred to in paragraph (10) shall be for the sum which is the difference between the prescribed sum paid and the sum which was prescribed for a pre-payment certificate valid for four months on the date that the prescribed sum was paid.

(12) In paragraph (10) “the relevant period” means the period of 3 months immediately following the month in respect of which an application under paragraph (6) may be made.

(13) Applications under this regulation shall be made to the Health Board which received the prescribed sum and shall be accompanied by the certificate (where granted) and a declaration in support of the claim and any repayment shall be made in such manner and subject to such conditions as the Scottish Ministers may determine.

(14) Subject to paragraph (15) an application under this regulation shall be made where the person in respect of whom the payment of the prescribed sum was made—

(a) dies or becomes resident in a hospital and thereafter dies, within 24 months of the date of his death; or

(b) has a pre-payment certificate valid for 4 months and becomes a person—

(i) to whom any of the provisions of regulation 7(1)(b)-(f) apply, or

(ii) entitled to remission under regulation 3 of the Travelling Expenses and Remission of Charges Regulations

within four months of the date on which the pre-payment certificate became valid; or

(c) has a pre-payment certificate valid for 12 months and becomes a person;

(i) to whom any of the provisions of regulation 7(1)(b)-(f) apply, or

(ii) entitled to remission under regulation 3 of the Travelling Expenses and Remission of Charges Regulations

within seven months of the date on which the pre-payment certificate became valid; or

(d) becomes resident in hospital and remains there until the expiry of a pre-payment certificate within 3 months of the date of expiry.

(15) Where an application under this regulation is made outside the time limits specified in paragraph (14) in respect of a death which occurs on or after 1st April 2001 or in respect of a person who becomes a person to whom paragraph 14(b) to (d) applies on or after 1st April 2001, the Health Board shall accept the application if the Scottish Ministers are satisfied that the delay was for good cause.”.

### **Transitional provisions**

5. These Regulations shall apply in relation to supplies of drugs and appliances made after 31st March 2001 except that—

(a) the amendment of regulation 8 (pre-payment certificates) of the principal Regulations by regulation 3(2) above shall apply only where the application referred to in paragraph (1) of the said regulation 8 is received after that date; and

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- (b) the substitution of Schedule 3 by regulation 3(3) above shall apply only where the examination or first examination leading to the supply of the specified appliance takes place after that date.

St Andrew's House,  
Edinburgh  
15th March 2001

*SUSAN C DEACON*  
A member of the Scottish Executive

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## SCHEDULE

Regulation 2(3)

### “SCHEDULE 1

Regulations 3, 4 and 5

#### CHARGES FOR ELASTIC HOSIERY

<i>Column 1</i> <i>Specified Appliance</i>	<i>Column 2</i> <i>Specified Sum</i>
Above knee stocking, below knee stocking or thigh stocking	£6.10 each (ie £12.20 per pair)

## SCHEDULE 2

Regulation 5

#### CHARGES FOR TIGHTS

<i>Column 1</i> <i>Specified Appliance</i>	<i>Column 2</i> <i>Specified Sum</i>
Tights (per pair)	£12.20

## SCHEDULE 3

Regulation 6

#### CHARGES FOR FABRIC SUPPORTS AND WIGS

<i>Column 1</i> <i>Specified Appliance</i>	<i>Column 2</i> <i>Specified Sum</i>
Surgical Brassiere	£20.60
Abdominal or Spinal Support	£31.00
Stock Modacrylic Wig	£50.70
Partial Human Hair Wig	£133.70
Full Bespoke Human Hair Wig	£195.40”

## EXPLANATORY NOTE

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

These Regulations amend the National Health Service (Charges for Drugs and Appliances) (Scotland) Regulations 1989 (S.I.1989/326) (“the principal Regulations”) which provide for the making and recovery of charges for drugs and appliances supplied by doctors and pharmacists providing pharmaceutical services, and by Health Boards and NHS trusts to out-patients.

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Amendments made to the principal Regulations by regulations 2 and 3 and the Schedule increase the charge for items on prescription or supplied to out-patients from £6.00 to £6.10. The charge for elastic stockings is increased from £6.00 to £6.10 each (from £12.00 to £12.20 per pair) and that for tights from £12.00 to £12.20. The charges for partial human hair wigs and modacrylic wigs are increased from £131.50 to £133.70 and from £49.90 to £50.70 respectively. The charge for full human hair wigs is increased from £192.20 to £195.40. The charge for fabric supports is increased from £30.50 to £31.00 and the charge for surgical brassieres is increased from £20.30 to £20.60. The sums prescribed for the grant of pre-payment certificates are increased from £31.40 to £31.90 for a four monthly certificate and from £86.20 to £87.60 for a twelve monthly certificate.

Regulation 4 amends regulation 8 of the principal Regulations regarding the repayment of sums paid for pre-payment certificates. It replaces paragraphs (7) and (8) and provides that in respect of payments made on or after 1st April 2001 a refund, calculated according to the nature of the certificate and period of validity, shall be payable to the estate of a person who has died during the period of validity of the certificate excluding the month of the application for repayment.

Regulation 5 provides that the application of these Regulations shall be in respect of supplies made after 31st March 2001 or where examinations leading to the supply of an appliance take place after that date and in respect of repayments of sums for pre-payment certificates, where the pre-payment certificate itself was applied for after 31st March 2001.